

## 73 Am. Jur. 2d Statutes § 58

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### A. Overview

## § 58. Generally

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 174 to 178

Although it is true under proper circumstances that some aid may be derived from administrative<sup>1</sup> or legislative<sup>2</sup> constructions of statutes, the interpretation of a statute is an exercise of the judicial power that the constitution assigns to the courts.<sup>3</sup> Statutes are generally considered to have been enacted with a view to their interpretation according to the settled maxims and principles of statutory interpretation;<sup>4</sup> in this regard, it has been said to be presumable that Congress legislates with knowledge of the basic rules of statutory construction.<sup>5</sup>

Although some authorities distinguish between "interpretation," as determining the meaning of words, and "construction," as determining the application of words to the facts in litigation, the words are often used interchangeably and without distinction.<sup>6</sup>

A court need not accept an interpretation of a statute simply because it is agreed to by the parties.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The Supreme Court's limited role is to read and apply the law that policymakers have ordained. [Romag Fasteners, Inc v. Fossil, Inc.](#), 140 S. Ct. 1492 (2020).

Where the words of a statute are unambiguous, the judicial inquiry is complete. [Babb v. Wilkie](#), 140 S. Ct. 1168 (2020).

When the plain language of a statute is unambiguous, the Supreme Court's inquiry begins with the statutory text, and ends there as well. [National Ass'n of Mfrs. v. Department of Defense, 138 S. Ct. 617 \(2018\)](#).

The court's inquiry into the meaning of the statute's text ceases when the statutory language is unambiguous and the statutory scheme is coherent and consistent. [Matal v. Tam, 137 S. Ct. 1744 \(2017\)](#).

In statutory construction, the court begins with the language of the statute, and if the statutory language is unambiguous and the statutory scheme is coherent and consistent, the inquiry ceases. [Kingdomware Technologies, Inc. v. U.S., 136 S. Ct. 1969 \(2016\)](#).

Criminal laws are for courts, rather than the government, to construe. [Abramski v. U.S., 134 S. Ct. 2259 \(2014\)](#).

In a statutory interpretation case, the court relies on traditional rules of statutory interpretation. [POM Wonderful LLC v. Coca-Cola Co., 134 S. Ct. 2228 \(2014\)](#).

Correctly reading a statute demands awareness of certain presuppositions. [Bond v. U.S., 134 S. Ct. 2077 \(2014\)](#).

The inquiry ceases in a statutory construction case if the statutory language is unambiguous and the statutory scheme is coherent and consistent. [Sebelius v. Cloer, 133 S. Ct. 1886 \(2013\)](#).

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### Footnotes

- 1                   [Am. Jur. 2d, Administrative Law § 72](#).
- 2                   [§ 89](#).
- 3                   [Carter v. California Dept. of Veterans Affairs, 38 Cal. 4th 914, 44 Cal. Rptr. 3d 223, 135 P.3d 637 \(2006\)](#).
- 4                   [State v. Bell, 184 N.C. 701, 115 S.E. 190 \(1922\)](#).
- 5                   [McNary v. Haitian Refugee Center, Inc., 498 U.S. 479, 111 S. Ct. 888, 112 L. Ed. 2d 1005 \(1991\); City of DeQuincy v. Henry, 62 So. 3d 43 \(La. 2011\)](#).
- 6                   [Kansas City, Mo. v. Federal Pac. Elec. Co., 310 F.2d 271 \(8th Cir. 1962\)](#).
- 7                   [Rumsfeld v. Forum for Academic and Institutional Rights, Inc., 547 U.S. 47, 126 S. Ct. 1297, 164 L. Ed. 2d 156, 206 Ed. Law Rep. 819 \(2006\)](#).

## 73 Am. Jur. 2d Statutes § 59

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### Statutes

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### V. Interpretation

#### A. Overview

## § 59. Effect of legislature's intent, objectives, and purposes

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 181(1)

In the interpretation of statutes, the legislative will is the all-important or controlling factor.<sup>1</sup> Accordingly, the primary<sup>2</sup> fundamental<sup>3</sup> or cardinal<sup>4</sup> rule of construction of statutes is to determine<sup>5</sup> and give effect to<sup>6</sup> the intention of the legislature. Thus, a construction adopted should not be such as to nullify, destroy, or defeat the intention of the legislature.<sup>7</sup>

### Observation:

The Uniform Statute and Rule Construction Act provides that a statute is construed, if possible, to give effect to its objective and purpose.<sup>8</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

In interpreting a statute, it is mistaken to assume that whatever might appear to further the statute's primary objective must be the law. [Henson v. Santander Consumer USA Inc.](#), 137 S. Ct. 1718 (2017).

Congressional intent is discerned primarily from the statutory text. [CTS Corp. v. Waldburger](#), 134 S. Ct. 2175 (2014).

In interpreting a statute, it is the court's fundamental task to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. [In re HMR Foods Holding, LP](#), 602 B.R. 855 (Bankr. D. Del. 2019).

When construing a statute, a court's primary purpose is to ascertain and effectuate the intent of the General Assembly. [People v. Diaz](#), 2015 CO 28, 347 P.3d 621 (Colo. 2015).

Supreme Court's primary objective in construing a statute is to ascertain and give effect to the intent of the legislature; the best evidence of legislative intent is the language of the statute itself, which must be given its plain, ordinary and popularly understood meaning. [Lutkaukas v. Ricker](#), 2015 IL 117090, 390 Ill. Dec. 74, 28 N.E.3d 727 (Ill. 2015).

When interpreting statutes, fundamental rule to which all other rules are subordinate is that intent of legislature governs if that intent can be ascertained. [Vontress v. State](#), 325 P.3d 1114 (Kan. 2014).

It is not for the Supreme Court to determine whether a statute enacted by the General Assembly comports with the Court's ideas of justice, expediency or sound public policy. [Blais v. Rhode Island Airport Corporation](#), 212 A.3d 604 (R.I. 2019).

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### Footnotes

- 1 [U.S. v. N. E. Rosenblum Truck Lines](#), 315 U.S. 50, 62 S. Ct. 445, 86 L. Ed. 671 (1942).  
Legislative intent is the polestar that guides a court's statutory construction analysis. [State v. J.M.](#), 824 So. 2d 105 (Fla. 2002).  
Where Congress has made its intent clear, courts must give effect to that intent. [Miller v. French](#), 530 U.S. 327, 120 S. Ct. 2246, 147 L. Ed. 2d 326 (2000).
- 2 [Atlantic Mut. Ins. Co. v. C.I.R.](#), 523 U.S. 382, 118 S. Ct. 1413, 140 L. Ed. 2d 542 (1998); [People v. Johnson](#), 2011 IL 111817, 355 Ill. Dec. 417, 959 N.E.2d 1150 (Ill. 2011); [Yatauro v. Mangano](#), 17 N.Y.3d 420, 931 N.Y.S.2d 36, 955 N.E.2d 343 (2011).
- 3 [In re C.H.](#), 53 Cal. 4th 94, 133 Cal. Rptr. 3d 573, 264 P.3d 357 (2011); [Bender v. Bender](#), 292 Conn. 696, 975 A.2d 636 (2009); [People v. Pack](#), 224 Ill. 2d 144, 308 Ill. Dec. 735, 862 N.E.2d 938 (2007).
- 4 [People v. Comage](#), 241 Ill. 2d 139, 349 Ill. Dec. 119, 946 N.E.2d 313 (2011); [Saxton v. Com.](#), 315 S.W.3d 293 (Ky. 2010); [Comptroller of Treasury v. Science Applications Intern. Corp.](#), 405 Md. 185, 950 A.2d 766 (2008).
- 5 [Atlantic Mut. Ins. Co. v. C.I.R.](#), 523 U.S. 382, 118 S. Ct. 1413, 140 L. Ed. 2d 542 (1998); [In re C.H.](#), 53 Cal. 4th 94, 133 Cal. Rptr. 3d 573, 264 P.3d 357 (2011); [People v. Johnson](#), 2011 IL 111817, 355 Ill. Dec. 417, 959 N.E.2d 1150 (Ill. 2011); [Yatauro v. Mangano](#), 17 N.Y.3d 420, 931 N.Y.S.2d 36, 955 N.E.2d 343 (2011).
- 6 [Miller v. French](#), 530 U.S. 327, 120 S. Ct. 2246, 147 L. Ed. 2d 326 (2000); [In re C.H.](#), 53 Cal. 4th 94, 133 Cal. Rptr. 3d 573, 264 P.3d 357 (2011); [People v. Johnson](#), 2011 IL 111817, 355 Ill. Dec. 417, 959 N.E.2d 1150 (Ill. 2011); [Yatauro v. Mangano](#), 17 N.Y.3d 420, 931 N.Y.S.2d 36, 955 N.E.2d 343 (2011).
- 7 [New York State Dept. of Social Services v. Dublino](#), 413 U.S. 405, 93 S. Ct. 2507, 37 L. Ed. 2d 688 (1973).
- 8 [Unif. Statute and Rule Construction Act](#) § 18(a)(1).

## 73 Am. Jur. 2d Statutes § 60

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### Statutes

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### V. Interpretation

#### A. Overview

## § 60. Effect of legislature's intent, objectives, and purposes—Relation of general rules of construction to determination of legislative intent

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 181(1)

In the interpretation of a statute, the intention of the legislature is gathered from the provisions enacted, by the application of sound<sup>1</sup> and well-established<sup>2</sup> canons of construction. The cardinal rule of statutory construction is to effectuate legislative intent with all rules of construction being aides to that end.<sup>3</sup> The fundamental question in all cases of statutory interpretation is legislative intent, and the rules of statutory construction are designed to ascertain and enforce the intent of the legislature.<sup>4</sup> The rules of grammar and canons of construction are but tools, guides to help courts determine likely legislative intent.<sup>5</sup>

### Definition:

"Canons of construction" are interpretative tools, which are no more than rules of thumb that help the court determine the meaning of legislation; canons assist the court in determining the meaning of particular statutory provisions by focusing on the broader, statutory context.<sup>6</sup>

However, since all rules for the interpretation of statutes of doubtful meaning have for their sole object the discovery of the legislative intent,<sup>7</sup> every technical rule as to the construction of a statute must yield to the expression of the paramount will of the legislature.<sup>8</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Court's reliance on traditional rules of statutory interpretation does not change because the case involves multiple federal statutes, nor does it change because an agency is involved. [POM Wonderful LLC v. Coca-Cola Co.](#), 134 S. Ct. 2228 (2014).

If a statute is ambiguous, the court, in determining the intention of the legislation, may consider among other matters: (1) the object sought to be attained; (2) the circumstances under which the statute was enacted; (3) the legislative history; (4) the common law or former statutory provisions, including laws upon the same or similar subjects; (5) the consequences of a particular construction; (6) the administrative construction of the statute; and (7) the preamble. [Hall v. Malloy](#), 2015 ND 94, 862 N.W.2d 514 (N.D. 2015).

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### Footnotes

- 1 [State v. General Daniel Morgan Post No. 548, Veterans of Foreign Wars](#), 144 W. Va. 137, 107 S.E.2d 353 (1959).
- 2 [Hassett v. Welch](#), 303 U.S. 303, 58 S. Ct. 559, 82 L. Ed. 858 (1938); [In re Conservatorship of Whitley](#), 50 Cal. 4th 1206, 117 Cal. Rptr. 3d 342, 241 P.3d 840 (2010).
- 3 [Lawrence County Educ. Ass'n v. Lawrence County Bd. of Educ.](#), 244 S.W.3d 302, 229 Ed. Law Rep. 958 (Tenn. 2007).
- 4 [City of DeQuincy v. Henry](#), 62 So. 3d 43 (La. 2011).
- 5 [California Redevelopment Assn. v. Matosantos](#), 53 Cal. 4th 231, 135 Cal. Rptr. 3d 683, 267 P.3d 580 (2011).
- 6 [CBS Inc. v. PrimeTime 24 Joint Venture](#), 245 F.3d 1217 (11th Cir. 2001).
- 7 [Symmes Twp. Bd. of Trustees v. Smyth](#), 87 Ohio St. 3d 549, 2000-Ohio-470, 721 N.E.2d 1057 (2000).
- 8 [National R. R. Passenger Corp. v. National Ass'n of R. R. Passengers](#), 414 U.S. 453, 94 S. Ct. 690, 38 L. Ed. 2d 646 (1974); [Kapral v. U.S.](#), 166 F.3d 565 (3d Cir. 1999).

## 73 Am. Jur. 2d Statutes § 61

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### V. Interpretation

#### A. Overview

## § 61. Effect of construction and change of construction

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 174

The interpretation of a statute by the highest courts of a state by which the statute was enacted is generally regarded as an integral part of the statute<sup>1</sup> until the legislature amends it contrary to that interpretation.<sup>2</sup> The highest court's initial interpretation of a statute becomes part of the statute itself and, thus, relates back to the statute's date of enactment.<sup>3</sup> A statutory construction, once made and followed, should never be altered upon the changed view of new personnel of the court.<sup>4</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Judicial construction of a statute ordinarily applies retroactively. [DIRECTV, Inc. v. Imburgia](#), 136 S. Ct. 463 (2015).

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### Footnotes

- 1 [Guaranty Trust Co. of New York v. Blodgett](#), 287 U.S. 509, 53 S. Ct. 244, 77 L. Ed. 463 (1933); [Abruzzo v. City of Park Ridge](#), 231 Ill. 2d 324, 325 Ill. Dec. 584, 898 N.E.2d 631 (2008).
- 2 [Abruzzo v. City of Park Ridge](#), 231 Ill. 2d 324, 325 Ill. Dec. 584, 898 N.E.2d 631 (2008).
- 3 [Com. v. Foster](#), 609 Pa. 502, 17 A.3d 332 (2011) (Per Baer, J., with two justices joining, two justices concurring only in the judgment, and two justices concurring separately).

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## 73 Am. Jur. 2d Statutes § 62

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### V. Interpretation

#### A. Overview

## § 62. Federal statutes

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 174 to 178

Federal statutes are sometimes interpreted so as to give them a uniform application throughout the nation.<sup>1</sup> However, a federal statute is not required to be given such an interpretation as will give it a uniform operation in all states irrespective of local law in matters normally within state power.<sup>2</sup> In this regard, it has been said that federal statutes impinging on important state interests cannot be construed without regard to the implications of the dual system of government in the United States<sup>3</sup> and that, in ascertaining the scope of congressional legislation, a due regard for a proper adjustment of the local and national interests, in the federal scheme, must always be in the background.<sup>4</sup> The courts should, thus, exercise a great wariness in the construction of a statute where the problem of construction implicates a phase of federalism and involves striking a balance between national and state authority in a sensitive area of government.<sup>5</sup>

The decisions of the United States Supreme Court interpreting terms used in federal statutes should be adhered to by state courts in the interpretation of a federal statute.<sup>6</sup>

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### Footnotes

- 1 [Reconstruction Finance Corp. v. Beaver County, Pa.](#), 328 U.S. 204, 66 S. Ct. 992, 90 L. Ed. 1172 (1946).
- 2 [Davies Warehouse Co. v. Bowles](#), 321 U.S. 144, 64 S. Ct. 474, 88 L. Ed. 635 (Em. App. 1944).
- 3 [BFP v. Resolution Trust Corp.](#), 511 U.S. 531, 114 S. Ct. 1757, 128 L. Ed. 2d 556 (1994).
- 4 [Federal Trade Commission v. Bunte Bros.](#), 312 U.S. 349, 61 S. Ct. 580, 85 L. Ed. 881 (1941).
- 5 [Palmer v. Com. of Mass.](#), 308 U.S. 79, 60 S. Ct. 34, 84 L. Ed. 93 (1939).
- 6 [Lytle v. Southern Ry.-Carolina Division](#), 171 S.C. 221, 171 S.E. 42, 90 A.L.R. 915 (1933).

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## 73 Am. Jur. 2d Statutes § 63

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### V. Interpretation

#### A. Overview

## § 63. Statute as amending existing law; construction of amendments

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 230

It has been said that whether an act is amendatory of an existing law is determined not by the title alone or by declarations in the new act that it purports to amend an existing law but, rather, by an examination and comparison of its provisions with the existing law and that if the act's aim is to clarify or correct uncertainties which arose from the enforcement of the existing law, or to reach situations which were not covered by the original statute, the act is amendatory even though, in its wording, it does not purport to amend the language of the prior act.<sup>1</sup> When a statutory amendment is passed, it is presumed that the legislature intended to change existing law,<sup>2</sup> however, not every amendment to a statute must be interpreted as a substantive change in the law.<sup>3</sup> Although an amendment to a statute may give rise to a presumption that the legislature intended to change the law, such presumption is not conclusive and may be overcome by other circumstances and considerations.<sup>4</sup> The presumption does not apply where statute's meaning is not in doubt.<sup>5</sup> A statutory amendment may clarify rather than change existing law.<sup>6</sup> Showing that the legislature only intended to clarify an ambiguity with a statutory amendment can rebut the presumption that the legislature intends to change the law when it amends a statute.<sup>7</sup> When an original statute is ambiguous, the legislative purpose in amending the statute may be to clarify the statute's ambiguities, not to change the law.<sup>8</sup> When determining whether an amendment clarifies or changes a statute, the courts look to the amendment's plain language and legislative history, and the time and circumstances of an amendment may indicate that the legislature merely intended to clarify the intent of the original enactment.<sup>9</sup>

### Observation:

When changes have been introduced by amendment to a statute, the presumed changes do not go any further than that which is expressly declared or necessarily implied, and the court cannot impute to the legislature, in the absence of an intent clearly expressed in the act, an intent to enact a statute which involves a departure from existing statutory law.<sup>10</sup>

When Congress amends one statutory provision but not another, it is presumed to have acted intentionally.<sup>11</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Where Congress has simultaneously chosen to amend one statute in one way and a second statute in another way, courts normally assume the differences in language imply differences in meaning. [Comcast Corporation v. National Association of African American-Owned Media, 140 S. Ct. 1009 \(2020\)](#).

Congress does not make radical—but entirely implicit—changes through technical and conforming amendments; Congress does not hide elephants in mouseholes. [Cyan, Inc. v. Beaver County Employees Retirement Fund, 138 S. Ct. 1061 \(2018\)](#).

In construing a statutory amendment, the Supreme Court resists speculating whether Congress acted inadvertently. [Hamer v. Neighborhood Housing Services of Chicago, 138 S. Ct. 13 \(2017\)](#).

When Congress intends to effect a change in the meaning of a statute when it amends another statute, it ordinarily provides a relatively clear indication of its intent in the text of the amended provision. [TC Heartland LLC v. Kraft Foods Group Brands LLC, 137 S. Ct. 1514 \(2017\)](#).

A declaration that a statutory amendment merely clarified the law cannot be given an obviously absurd effect, and the court cannot accept the Legislative statement that an unmistakable change in the statute is nothing more than a clarification and restatement of its original terms. [Protect Our Benefits v. City and County of San Francisco, 235 Cal. App. 4th 619, 185 Cal. Rptr. 3d 410 \(1st Dist. 2015\)](#).

Presumption that legislature intends to change law when it amends statute will not apply where it appears on examination that statutory amendment was only for purpose of rearrangement, clarification, or to make second statute applicable to situation theretofore covered by another statute. [Koehnen v. Flagship Marine Company, 947 N.W.2d 448 \(Minn. 2020\)](#).

When the legislature amends a statute, the presumption is that it intended to change the law. [State v. Moore, 770 S.E.2d 131 \(N.C. Ct. App. 2015\)](#).

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### Footnotes

1

[Planned Parenthood Affiliates v. Swoap, 173 Cal. App. 3d 1187, 219 Cal. Rptr. 664 \(1st Dist. 1985\)](#).

2                   [Commission on State Emergency Communications v. TracFone Wireless, Inc.](#), 343 S.W.3d 233 (Tex. App. Austin 2011), petition for review filed, (June 20, 2011); [Marblex Design Intern., Inc. v. Stevens](#), 54 Va. App. 299, 678 S.E.2d 276 (2009).

3                   When the legislature has revised an existing law, an appellate court presumes that a change in meaning was intended. [State v. Henning](#), 289 Kan. 136, 209 P.3d 711 (2009).

4                   [Anderson Highway Signs and Supply, Inc. v. Close](#), 6 P.3d 123 (Wyo. 2000).

5                   [People v. Villa](#), 2011 IL 110777, 355 Ill. Dec. 220, 959 N.E.2d 634 (Ill. 2011).

6                   [In re Hagler](#), 429 B.R. 42 (Bankr. N.D. Ga. 2009) (applying Georgia law).

7                   [In re Brent](#), 458 B.R. 444 (Bankr. N.D. Ill. 2011).

8                   [People v. Jackson](#), 2011 IL 110615, 353 Ill. Dec. 353, 955 N.E.2d 1164 (Ill. 2011).

9                   [Brennan v. Kansas Ins. Guar. Ass'n](#), 293 Kan. 446, 264 P.3d 102 (2011).

10                  [Commission on State Emergency Communications v. TracFone Wireless, Inc.](#), 343 S.W.3d 233 (Tex. App. Austin 2011), petition for review filed, (June 20, 2011).

11                  [Gaida v. Planning and Zoning Com'n of City of Shelton](#), 108 Conn. App. 19, 947 A.2d 361 (2008).

[Gross v. FBL Financial Services, Inc.](#), 557 U.S. 167, 129 S. Ct. 2343, 174 L. Ed. 2d 119 (2009).

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

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## Research References

### West's Key Number Digest

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### Trial Strategy

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## 73 Am. Jur. 2d Statutes § 64

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 1. In General

## § 64. Generally

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 214

The meaning to be ascribed to a statute can only be derived from a considered weighing of every relevant aid to construction.<sup>1</sup> However, canons of statutory interpretation are not mandatory rules. They are guides that need not be conclusive. Canons of statutory interpretation are designed to help judges determine the legislature's intent as embodied in particular statutory language, and other circumstances evidencing congressional intent can overcome their force. Specific canons of statutory interpretation are often countered by some maxim pointing in a different direction.<sup>2</sup> When aid to construction of the meaning of words, as used in a statute, is available, there can be no rule of law which forbids its use, however clear the words may appear on superficial examination; pertinent also are the history of the times, the circumstances surrounding the statute's passage, and attempted amendments.<sup>3</sup> In interpreting a statute, it is not the court's task to assess the consequences of each approach to reading the statute and adopt the one that produces the least mischief; rather, it is the court's charge to give effect to the law that Congress enacted.<sup>4</sup>

In some cases, the true meaning of an ambiguous statute may be found from extraneous circumstances.<sup>5</sup> For this purpose, courts may resort to, or take judicial notice of, facts or events of common knowledge reasonably within the scope of judicial cognizance.<sup>6</sup> However, it is improper to resort to extrinsic circumstances where the statute is plain and unambiguous.<sup>7</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

The only role extratextual materials can properly play is to help clear up, not create, ambiguity about a statute's original meaning. [McGirt v. Oklahoma](#), 140 S. Ct. 2452 (2020).

Courts must give effect to the clear meaning of statutes as written, giving each word its ordinary, contemporary, common meaning. [Artis v. District of Columbia, 138 S. Ct. 594 \(2018\)](#).

Courts must give effect to the clear meaning of statutes as written. [Star Athletica, L.L.C. v. Varsity Brands, Inc., 137 S. Ct. 1002 \(2017\)](#).

To give effect to the clear meaning of statutes as written, the court gives each word its ordinary, contemporary, common meaning. [Star Athletica, L.L.C. v. Varsity Brands, Inc., 137 S. Ct. 1002 \(2017\)](#).

When the text of a statute is clear, the court need not consider extra-textual evidence. [N.L.R.B. v. SW General, Inc., 137 S. Ct. 929 \(2017\)](#).

Principle of statutory interpretation is often countered by some maxim pointing in a different direction. [POM Wonderful LLC v. Coca-Cola Co., 134 S. Ct. 2228 \(2014\)](#).

Principles that guide statutory interpretation include: (1) give effect to legislative intent; (2) look first to the ordinary, plain meaning of the language; (3) do not add or delete language; (4) do not apply forced or subtle interpretations; (5) keep in mind the statutory context; (6) consider the purpose, aim, or policy of the legislature; (7) avoid constructions inconsistent with common sense; and (8) presume that each section is to work harmoniously with others. [TransCare Maryland, Inc. v. Murray, 431 Md. 225, 64 A.3d 887 \(2013\)](#).

In construing the legislature's intent in enacting a statute, a court may consider the statute's progression through the legislative body, the history of the times, prior legislation, contemporary customs and conditions and the system of positive law of which they are part. [Sheehan v. Weaver, 467 Mass. 734, 7 N.E.3d 459 \(2014\)](#).

The court may consider the structure of a statute in determining its meaning. [State v. Stay, 935 N.W.2d 428 \(Minn. 2019\)](#).

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### Footnotes

- 1 [U.S. v. Dickerson, 310 U.S. 554, 60 S. Ct. 1034, 84 L. Ed. 1356 \(1940\)](#).
- 2 [Chickasaw Nation v. U.S., 534 U.S. 84, 122 S. Ct. 528, 151 L. Ed. 2d 474 \(2001\)](#).
- 3 [Considine v. Portville Cent. School Dist., 12 N.Y.3d 286, 879 N.Y.S.2d 806, 907 N.E.2d 684, 245 Ed. Law Rep. 393 \(2009\)](#).
- 4 [Lewis v. City of Chicago, Ill., 130 S. Ct. 2191, 176 L. Ed. 2d 967 \(2010\)](#).
- 5 [State v. Heiges, 806 N.W.2d 1 \(Minn. 2011\); State v. Grady, 2007 WI 81, 302 Wis. 2d 80, 734 N.W.2d 364 \(2007\)](#).

When construing a statute, if the statutory language may reasonably be given more than one interpretation, courts may consider various extrinsic aids, including the purpose of the statute, the evils to be remedied, the legislative history, public policy, and the statutory scheme encompassing the statute. [People v. King, 38 Cal. 4th 617, 42 Cal. Rptr. 3d 743, 133 P.3d 636 \(2006\)](#).

When courts are attempting to resolve a statutory ambiguity, the rules of statutory construction authorize them to consider matters beyond the text of the statute being construed; the courts may consider, among other things, public policy, historical facts preceding or contemporaneous with the enactment of the statute being construed, the background and purpose of the statute, earlier versions of the statute, the caption of the

act, the legislative history of the statute, and the entire statutory scheme in which the statute appears. [Lee Medical, Inc. v. Beecher](#), 312 S.W.3d 515 (Tenn. 2010).

6 Prewitt v. Warfield, 203 Ark. 137, 156 S.W.2d 238 (1941).

7 Hughes Aircraft Co. v. Jacobson, 525 U.S. 432, 119 S. Ct. 755, 142 L. Ed. 2d 881 (1999); Miller v. Bank of America, 46 Cal. 4th 630, 94 Cal. Rptr. 3d 31, 207 P.3d 531 (2009); People ex rel. Illinois Dept. of Corrections v. Hawkins, 2011 IL 110792, 351 Ill. Dec. 832, 952 N.E.2d 624 (Ill. 2011).

No matter how illuminating non-codified external sources may be for statutory interpretation, they cannot provide a basis for departing from clear codified statutory provisions. [Lee Medical, Inc. v. Beecher](#), 312 S.W.3d 515 (Tenn. 2010).

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## 73 Am. Jur. 2d Statutes § 65

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 1. In General

## § 65. Subject matter

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 183

The true interpretation of ambiguous language in a statute may be found by resort to the subject matter of the statute.<sup>1</sup> In ascertaining the intent of the legislature, the language of a statute must be read in a sense which harmonizes with the subject matter.<sup>2</sup> Thus, however general the language of a statute may be, when it is used in connection with a particular subject matter, it is presumed to be used in subordination to that matter<sup>3</sup> in the absence of a specific expression of intent and purpose to extend its operation to other subjects.<sup>4</sup> On the other hand, where the general language of a statute is broad enough to include a particular subject matter, an intent to exclude it from the operation of the law must be definitely expressed.<sup>5</sup>

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### Footnotes

1

[Banegas v. State Indus. Ins. System](#), 117 Nev. 222, 19 P.3d 245 (2001).

As to the subject matter to which identical words in the same statute relate, as affecting the rule requiring the same meaning to be given to identical words in the same statute, see [§ 140](#).

2

[City of Greensboro v. Smith](#), 241 N.C. 363, 85 S.E.2d 292 (1955).

3

[Rockland Water Co. v. Camden & R. Water Co.](#), 80 Me. 544, 15 A. 785 (1888).

4

[Abramson v. Hard](#), 229 Ala. 2, 155 So. 590 (1934).

5

[Choteau v. Burnet](#), 283 U.S. 691, 51 S. Ct. 598, 75 L. Ed. 1353 (1931).

## 73 Am. Jur. 2d Statutes § 66

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 1. In General

## § 66. Scope or purview of statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 183

The scope or purview of a statute is frequently considered by the courts in the interpretation thereof<sup>1</sup> since it is a general rule of construction that a statute should be interpreted so as to render it consistent or in conformity with its general scope or purview.<sup>2</sup> Ordinarily, courts may not extend a statute to cases not within its scope or purview,<sup>3</sup> however meritorious they may be.<sup>4</sup> In construing a statute, a court's office is simply to ascertain and declare what the statute contains, not to change its scope by reading into it language it does not contain or by reading out of it language it does.<sup>5</sup> Indeed, it has even been recognized that the general purview of a statute may control the literal meaning of a particular provision.<sup>6</sup>

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### Footnotes

1 [State ex rel. Angela M.W. v. Kruzicki](#), 209 Wis. 2d 112, 561 N.W.2d 729 (1997).

As to new cases, conditions, or subjects within the general scope or purview of a statute, as within the meaning thereof, see § 108.

2 [Hill v. Gila County](#), 56 Ariz. 317, 107 P.2d 377 (1940).

3 [City of Worcester v. Quinn](#), 304 Mass. 276, 23 N.E.2d 463, 125 A.L.R. 707 (1939).

The court's role in statutory interpretation is to carry out legislative intent without broadening or restricting the statute beyond its intended scope. [State v. L.W.](#), 350 S.W.3d 911 (Tenn. 2011).

4 [Watkinson v. Adams](#), 1939 OK 462, 187 Okla. 432, 103 P.2d 498 (1939).

5 [Vasquez v. State](#), 45 Cal. 4th 243, 85 Cal. Rptr. 3d 466, 195 P.3d 1049 (2008), as modified, (Dec. 17, 2008).

6 [Scharfeld v. Richardson](#), 133 F.2d 340, 145 A.L.R. 980 (App. D.C. 1942).

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## 73 Am. Jur. 2d Statutes § 67

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 1. In General

## § 67. Usage or custom

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 214, 215

Generally, a usage or custom in violation of or in conflict with an existing statutory provision will not be enforced.<sup>1</sup> Furthermore, no custom, however long and generally it has been followed, can nullify the plain meaning and purpose of a statute.<sup>2</sup> A statute's words and phrases are to be construed according to their common and approved usage, and where the words of a statute are clear and free from ambiguity, the letter of the statute may not be disregarded.<sup>3</sup> Legislation is the superior source of law which custom cannot abrogate.<sup>4</sup> On the other hand, in enacting legislation, the legislature is presumed to have in mind immemorial customs of the people,<sup>5</sup> and a usage or custom may in some cases be regarded by the courts as an indication of the construction to be given to a statute of doubtful meaning.<sup>6</sup> Thus, the rule in some jurisdictions is that for purposes of statutory interpretation, in the absence of a statutory definition, the reviewing court construes all words according to their common and approved usage, which may be established by dictionary definitions.<sup>7</sup> Statutes are to be construed reasonably, and statutory words and phrases are to be read in accordance with their plain meaning and common usage.<sup>8</sup> In construing a statute, a court's paramount concern is the legislative intent in its enactment, and the court determines this intent by reading undefined statutory language according to the rules of grammar and common usage.<sup>9</sup> Also, where a statutory or regulatory term is a technical term of art, defined more appropriately by reference to a particular industry usage than by the usual tools of statutory construction, a court will employ that industry usage.<sup>10</sup>

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### Footnotes

1

[Am. Jur. 2d, Customs and Usages § 13.](#)

2 Shapiro v. City of Baltimore, 230 Md. 199, 186 A.2d 605, 99 A.L.R.2d 861 (1962).  
3 Com. v. Abdul-Salaam, 571 Pa. 219, 812 A.2d 497 (2002).  
4 Unwired Telecom Corp. v. Parish of Calcasieu, 903 So. 2d 392 (La. 2005).  
5 In re Kreeger's Estate, 277 Pa. 326, 121 A. 109, 28 A.L.R. 669 (1923).  
6 Evans v. U.S., 504 U.S. 255, 112 S. Ct. 1881, 119 L. Ed. 2d 57 (1992).  
7 Lake City Corp. v. City of Mequon, 207 Wis. 2d 155, 558 N.W.2d 100 (1997).  
8 Com. v. Nixon, 2002 PA Super 191, 801 A.2d 1241 (2002).  
9 State ex rel. Edwards Land Co., Ltd. v. Delaware Cty. Bd. of Elections, 129 Ohio St. 3d 580, 2011-Ohio-4397,  
954 N.E.2d 1193 (2011).  
10 In re Pharmaceutical Industry Average Wholesale Price Litigation, 582 F.3d 156 (1st Cir. 2009), cert. dismissed, 131 S. Ct. 60, 177 L. Ed. 2d 1150 (2010).

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## 73 Am. Jur. 2d Statutes § 68

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 1. In General

## § 68. Policy

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 184

In construing a law of doubtful meaning or application, the policy which induced its enactment, or which was designed to be promoted thereby, is a proper subject for consideration<sup>1</sup> where such policy is clearly apparent.<sup>2</sup> When interpreting a statute with language that is susceptible of more than one reasonable construction, courts may consider the impact of an interpretation on public policy, for where uncertainty exists, consideration should be given to the consequences that will flow from a particular interpretation.<sup>3</sup> While the consideration of public policy is the province of the legislature, where a statute is ambiguous, the court may consider the policy implications of varying constructions of the statute.<sup>4</sup> Indeed, the proper course in all cases is to adopt that sense of the words which promotes in the fullest manner the policy of the legislature<sup>5</sup> in the enactment of the law<sup>6</sup> and to avoid a construction which would alter or defeat that policy.<sup>7</sup> Even the literal meaning of the terms employed should not be suffered to defeat the manifest policy intended to be promoted.<sup>8</sup> Moreover, in interpreting an ambiguous statute, the courts may, among other matters, take into consideration the general policy of the law,<sup>9</sup> or the settled policy of the state, insofar as it may throw light on the legislative intention,<sup>10</sup> and a statute should be interpreted in the light of,<sup>11</sup> and to effectuate, such policy<sup>12</sup> where it is clearly deducible from consistent acts of the legislature.<sup>13</sup> It is presumed that the legislature intended that the statute should be construed in the light of the settled and uniform policy of the law relating to the subject matter.<sup>14</sup> Moreover, even where a departure from policy is required, such policy is not to be regarded as abandoned any further than the terms and objects of the new legislation unmistakably require.<sup>15</sup>

On the other hand, the supposed policy of a state cannot, in a judicial tribunal, prevail over the plain language of a statute.<sup>16</sup> Considerations of policy divorced from a statute's text and purpose cannot override its meaning.<sup>17</sup> Moreover, a court is not free,

in construing a statute, to substitute its own ideas as to the policy of the law.<sup>18</sup> In construing a statute, the court's role is to interpret the statutes as they are written, not to establish policy; the latter role is for the legislature.<sup>19</sup>

The term "public policy" is vague and uncertain, and unless deducible in the given circumstances from statutory provisions, public policy should be accepted only with the utmost circumspection, if at all, as the basis of judicial determination.<sup>20</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Policy arguments cannot supersede the clear statutory text. *Universal Health Services, Inc. v. U.S.*, 136 S. Ct. 1989 (2016).

It is appropriate to refer to basic principles of federalism embodied in the Constitution to resolve ambiguity in a federal statute. *Bond v. U.S.*, 134 S. Ct. 2077 (2014).

If the Supreme Court determines that a statute is ambiguous, the Court will resort to other sources, including relevant public policy, to determine the statute's purpose. *Kelty v. State Farm Mut. Auto. Ins. Co.*, 73 A.3d 926 (Del. 2013).

## [END OF SUPPLEMENT]

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### Footnotes

- 1      Blue Chip Stamps v. Manor Drug Stores, 421 U.S. 723, 95 S. Ct. 1917, 44 L. Ed. 2d 539 (1975); *State v. U.S.*, 134 Idaho 940, 12 P.3d 1284 (2000).  
As to new cases, conditions, or subjects within the general policy of a statute, as within the meaning thereof, see § 108.
- 2      *Reiter v. Chapman*, 177 Wash. 392, 31 P.2d 1005, 92 A.L.R. 828 (1934).
- 3      *MW Erectors, Inc. v. Niederhauser Ornamental and Metal Works Co., Inc.*, 36 Cal. 4th 412, 30 Cal. Rptr. 3d 755, 115 P.3d 41 (2005).
- 4      *State v. Tafoya*, 2010-NMSC-019, 148 N.M. 391, 237 P.3d 693 (2010).
- 5      *Ash Sheep Co. v. U.S.*, 252 U.S. 159, 40 S. Ct. 241, 64 L. Ed. 507 (1920); *Long v. Dick*, 87 Ariz. 25, 347 P.2d 581, 80 A.L.R.2d 949 (1959).
- 6      *Nardone v. U.S.*, 308 U.S. 338, 60 S. Ct. 266, 84 L. Ed. 307 (1939).
- 7      *U.S. v. Speers*, 382 U.S. 266, 86 S. Ct. 411, 15 L. Ed. 2d 314 (1965); *Matter of Allicity Ins. Co.*, 66 A.D.2d 531, 413 N.Y.S.2d 929 (1st Dep't 1979).
- 8      *U.S. v. N. E. Rosenblum Truck Lines*, 315 U.S. 50, 62 S. Ct. 445, 86 L. Ed. 671 (1942).
- 9      *Dupont v. Mills*, 39 Del. 42, 196 A. 168, 119 A.L.R. 174 (1937).
- 10     *Victory Cab Co. v. City of Charlotte*, 234 N.C. 572, 68 S.E.2d 433 (1951).
- 11     *City of Indianapolis v. Chase Nat. Bank of City of New York*, 314 U.S. 63, 62 S. Ct. 15, 86 L. Ed. 47 (1941).
- 12     *Bainbridge v. Merchants' & Miners' Transp. Co.*, 287 U.S. 278, 53 S. Ct. 159, 77 L. Ed. 302 (1932).
- 13     *Clark v. Murray*, 141 Kan. 533, 41 P.2d 1042 (1935).
- 14     *Andersen Consulting, LLP v. Gavin*, 255 Conn. 498, 767 A.2d 692 (2001).
- 15     *Franklin Light & Power Co. v. Southern Cities Power Co.*, 164 Tenn. 171, 47 S.W.2d 86 (1932).
- 16     *Colorado Interstate Gas Co. v. Federal Power Commission*, 324 U.S. 581, 65 S. Ct. 829, 89 L. Ed. 1206 (1945).
- 17     *U.S. v. Tohono O'Odham Nation*, 131 S. Ct. 1723, 179 L. Ed. 2d 723 (2011).

18 Stop Youth Addiction, Inc. v. Lucky Stores, Inc., 17 Cal. 4th 553, 71 Cal. Rptr. 2d 731, 950 P.2d 1086 (1998);  
People v. Sobczak-Obetts, 463 Mich. 687, 625 N.W.2d 764 (2001).

19 Los Angeles County Metropolitan Transp. Authority v. Alameda Produce Market, LLC, 52 Cal. 4th 1100,  
133 Cal. Rptr. 3d 738, 264 P.3d 579 (2011).

20 James v. Young, 77 N.D. 451, 43 N.W.2d 692, 20 A.L.R.2d 1086 (1950).  
In statutory construction, questions of public policy cannot be determinative of the outcome unless specific  
policy choices fairly can be attributed to Congress itself. Dawson Chemical Co. v. Rohm and Haas Co., 448  
U.S. 176, 100 S. Ct. 2601, 65 L. Ed. 2d 696 (1980).

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## 73 Am. Jur. 2d Statutes § 69

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 1. In General

## § 69. Spirit of statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 183

There are numerous cases involving the interpretation of statutes which make reference to the spirit thereof as an aid to construction.<sup>1</sup> Under this rule, a construction contrary to the general spirit of a statute is to be avoided<sup>2</sup> and that construction is favored which conforms to, and operates to carry out, the spirit of the statute.<sup>3</sup> However, where the words of a statute are clear and free from ambiguity, they are not to be ignored under the pretext of pursuing their spirit.<sup>4</sup> Moreover, a construction seeking harmony with the general spirit of the statute must be reasonably consistent with the language used.<sup>5</sup>

It is clear that an interpretation should not be placed upon a statute when such interpretation violates,<sup>6</sup> or operates as an extension of, both its letter and spirit.<sup>7</sup>

Where there is a conflict between the spirit of a law and the literal import of the terms employed, the former, at least in connection with other elements, has often been declared to prevail over the latter.<sup>8</sup> Under this rule, that which is within the spirit of a statute though not within its letter is a part of it,<sup>9</sup> and that which is not within the spirit but within the letter is not a part of it.<sup>10</sup> Where a literal interpretation would create a manifestly absurd result, contrary to public policy, the spirit of the law should control.<sup>11</sup> However, an application of the principle that the literal meaning of a statute is to be rejected in favor of a construction in harmony with its supposed spirit so nearly approaches the boundary between the exercise of the judicial power and that of the legislative power as to call for great caution and circumspection in order to avoid what would appear to be judicial legislation.<sup>12</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Part of a fair reading of statutory text is recognizing that Congress legislates against the backdrop of certain unexpressed presumptions. [Bond v. U.S., 134 S. Ct. 2077 \(2014\)](#).

The notion that some things "go without saying" applies to legislation just as it does to everyday life. [Bond v. U.S., 134 S. Ct. 2077 \(2014\)](#).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Meegan v. Brown, 16 N.Y.3d 395, 924 N.Y.S.2d 1, 948 N.E.2d 425 (2011); Lee v. Gore, 365 N.C. 227, 717 S.E.2d 356 (2011).
- 2 Continental Illinois Nat. Bank & Trust Co. of Chicago v. Chicago, R.I. & P. Ry. Co., 294 U.S. 648, 55 S. Ct. 595, 79 L. Ed. 1110 (1935); *In re Termination of Parental Rights as to N.J.*, 116 Nev. 790, 8 P.3d 126 (2000).
- 3 George Moore Ice Cream Co. v. Rose, 289 U.S. 373, 53 S. Ct. 620, 77 L. Ed. 1265 (1933); English v. State, 116 Nev. 828, 9 P.3d 60 (2000).
- 4 State v. Petitto, 59 So. 3d 1245 (La. 2011); State v. Vue, 797 N.W.2d 5 (Minn. 2011); Leno v. K & L Homes, Inc., 2011 ND 171, 803 N.W.2d 543 (N.D. 2011).
- 5 Age-Herald Pub. Co. v. Huddleston, 207 Ala. 40, 92 So. 193, 37 A.L.R. 898 (1921).
- 6 Estate of Braden ex rel. Gabaldon v. State, 228 Ariz. 323, 266 P.3d 349 (2011).
- 7 Black v. Plumb, 94 Colo. 318, 29 P.2d 708, 91 A.L.R. 1334 (1934).
- 8 Fleischmann Const. Co. v. U.S., to Use of Forsberg, 270 U.S. 349, 46 S. Ct. 284, 70 L. Ed. 624 (1926); Aponte-Correa v. Allstate Ins. Co., 162 N.J. 318, 744 A.2d 175 (2000).
- 9 Burke v. Industrial Commission, 368 Ill. 554, 15 N.E.2d 305, 119 A.L.R. 1152 (1938).
- 10 Muniz v. Hoffman, 422 U.S. 454, 95 S. Ct. 2178, 45 L. Ed. 2d 319 (1975).  
The letter will, if possible, be so read as to conform to the spirit of the act. *Arias v. Superior Court*, 46 Cal. 4th 969, 95 Cal. Rptr. 3d 588, 209 P.3d 923 (2009).
- 11 An act may be within the letter of a statute and yet not within the statute because not within its spirit, nor within the intention of its makers. *California Federal Sav. and Loan Ass'n v. Guerra*, 479 U.S. 272, 107 S. Ct. 683, 93 L. Ed. 2d 613 (1987).
- 12 Washoe Medical Center v. Second Judicial Dist. Court of State of Nev. ex rel. County of Washoe, 122 Nev. 1298, 148 P.3d 790 (2006); Perrelli v. Pastorelle, 206 N.J. 193, 20 A.3d 354 (2011).
- 12 Crooks v. Harrelson, 282 U.S. 55, 51 S. Ct. 49, 75 L. Ed. 156 (1930).

## 73 Am. Jur. 2d Statutes § 70

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### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 2. Purpose of, or Reason for, Statute

## § 70. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 184

Examination of purpose is a staple of statutory interpretation that makes up the daily fare of every appellate court in the country, and governmental purpose is a key element of a good deal of constitutional doctrine.<sup>1</sup> In the interpretation of a statute of doubtful meaning, it is proper to take into consideration its purpose<sup>2</sup> or objective.<sup>3</sup>

Statutes generally must be interpreted in harmony and conformity with the purpose of the statute<sup>4</sup> and in order to aid, advance, promote, subserve, support,<sup>5</sup> and effectuate the statute's aim, design, motive, end, aspirations, or object.<sup>6</sup> In this regard, the task of the United States Supreme Court is to interpret the words of a statute in light of the purposes that Congress sought to serve.<sup>7</sup>

The propriety of looking at the purpose of the statute in interpreting it has also been referred to, in some instances, in terms of the propriety of looking at the reason for the statute in construing it.<sup>8</sup> Even when language of a statute is plain and unambiguous, courts may look to a legislative purpose to support or confirm the plain meaning.<sup>9</sup> The view has also been expressed that the reason of a statute will prevail over its strict letter.<sup>10</sup>

The general purpose of a statute should be given effect even if it is necessary in so doing to restrict somewhat the force of subsidiary provisions that otherwise would conflict with the paramount intent.<sup>11</sup> Statutory enactments are to be interpreted so as to accomplish rather than defeat their purpose.<sup>12</sup> On the other hand, it is also a general rule that a statute should not be extended by construction beyond the purpose intended by the legislature.<sup>13</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Courts do not generally expect statutes to fulfill 100% of all of their goals. [Cyan, Inc. v. Beaver County Employees Retirement Fund](#), 138 S. Ct. 1061 (2018).

No legislation pursues its purposes at all costs. [American Exp. Co. v. Italian Colors Restaurant](#), 133 S. Ct. 2304 (2013).

When the ordinary tools of statutory construction permit a court to determine the specific purpose that Congress passed legislation, the court must attempt to discover those purposes. [U.S. Commodity Futures Trading Com'n v. Byrnes](#), 58 F. Supp. 3d 319 (S.D. N.Y. 2014).

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### Footnotes

- 1 [McCreary County, Ky. v. American Civil Liberties Union of Ky.](#), 545 U.S. 844, 125 S. Ct. 2722, 162 L. Ed. 2d 729, 15 A.L.R. Fed. 2d 865 (2005).
- 2 [Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for Southern California](#), 508 U.S. 602, 113 S. Ct. 2264, 124 L. Ed. 2d 539 (1993); [People v. Almore](#), 241 Ill. 2d 387, 350 Ill. Dec. 294, 948 N.E.2d 574 (2011); [County Council of Porter County v. RDA](#), 944 N.E.2d 519 (Ind. Ct. App. 2011), transfer denied, 962 N.E.2d 639 (Ind. 2011).  
As to new cases, conditions, or subjects within the general purpose of a statute, as within the meaning thereof, see § 108.
- 3 [People v. Christopherson](#), 231 Ill. 2d 449, 326 Ill. Dec. 40, 899 N.E.2d 257 (2008); [Walton v. Patil](#), 279 Neb. 974, 783 N.W.2d 438 (2010).
- 4 [Helvering v. Clifford](#), 309 U.S. 331, 60 S. Ct. 554, 84 L. Ed. 788 (1940).
- 5 [Chapman v. Houston Welfare Rights Organization](#), 441 U.S. 600, 99 S. Ct. 1905, 60 L. Ed. 2d 508 (1979); [Day v. City of Fontana](#), 25 Cal. 4th 268, 105 Cal. Rptr. 2d 457, 19 P.3d 1196 (2001).
- 6 [State v. Iowa Dist. Court for Mahaska County](#), 620 N.W.2d 271 (Iowa 2000).  
Under the Uniform Statute and Rule Construction Act, a statute is to be construed, if possible, to give effect to its objective and purpose. Unif. Statute and Rule Construction Act § 18(a)(1).
- 7 [Norfolk Redevelopment and Housing Authority v. Chesapeake and Potomac Telephone Co. of Virginia](#), 464 U.S. 30, 104 S. Ct. 304, 78 L. Ed. 2d 29 (1983).
- 8 [Ex parte Krothapalli](#), 762 So. 2d 836 (Ala. 2000); [Com. v. Valiton](#), 432 Mass. 647, 737 N.E.2d 1257 (2000).
- 9 [Ali v. CIT Technology Financing Services, Inc.](#), 416 Md. 249, 6 A.3d 890 (2010).
- 10 [Sorrells v. U.S.](#), 287 U.S. 435, 53 S. Ct. 210, 77 L. Ed. 413, 86 A.L.R. 249 (1932); [Martinez v. Research Park, Inc.](#), 75 N.M. 672, 410 P.2d 200 (1965) (overruled on other grounds by, [Lakeview Investments, Inc. v. Alamogordo Lake Village, Inc.](#), 86 N.M. 151, 520 P.2d 1096 (1974)).
- 11 [U.S. v. Seeger](#), 380 U.S. 163, 85 S. Ct. 850, 13 L. Ed. 2d 733 (1965).
- 12 [Helvering v. Hammel](#), 311 U.S. 504, 61 S. Ct. 368, 85 L. Ed. 303, 131 A.L.R. 1481 (1941); [Dennis v. State](#), 51 So. 3d 456 (Fla. 2010); [State v. Dixon](#), 282 Neb. 274, 802 N.W.2d 866 (2011).
- 13 [U.S. v. McElvain](#), 272 U.S. 633, 47 S. Ct. 219, 71 L. Ed. 451 (1926); [Kane v. Policemen's Relief and Pension Fund of City of Pittsburgh](#), 336 Pa. 540, 9 A.2d 739 (1939).

## 73 Am. Jur. 2d Statutes § 71

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 2. Purpose of, or Reason for, Statute

## § 71. Evils or mischief to be avoided; intended remedy

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 184

In the construction of an ambiguous statute, it is proper to take into consideration the particular evils at which the legislation is aimed, or the mischief sought to be avoided,<sup>1</sup> as well as the remedy intended to be afforded.<sup>2</sup> To determine the legislature's intent for purposes of statutory interpretation, the court may properly consider not just the statute's language but also the purpose and necessity for the law, the evils sought to be remedied, and the goals to be achieved.<sup>3</sup>

Statutory prohibitions often go beyond the principal evil for which they were enacted to cover reasonably comparable evils, and it is ultimately the provisions of our laws, rather than principal concerns of our legislators, by which we are governed.<sup>4</sup> A statute should not be extended by construction beyond the correction of evils sought by it.<sup>5</sup> There is a peril in interpreting statutes in accordance with presumed legislative purpose, particularly given that most statutes represent a compromise of purposes advanced by competing interest groups, not an unmitigated attempt to stamp out a particular evil.<sup>6</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

In interpreting the meaning of a statute, courts seek to determine the intent of the legislature in enacting it, ascertained from all its words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied, and the main object to be accomplished, to the end that the purpose of its framers may be effectuated. [Lynch v. Crawford](#), 483 Mass. 631, 135 N.E.3d 1037 (2019).

[END OF SUPPLEMENT]

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Footnotes

1           U.S. v. Champlin Refining Co., 341 U.S. 290, 71 S. Ct. 715, 95 L. Ed. 949 (1951); Thomas v. Motor Vehicle Admin., 418 Md. 280, 13 A.3d 1256 (2011); Bishop v. TES Realty Trust, 459 Mass. 9, 942 N.E.2d 173 (2011).  
To discern legislative intent, when interpreting a statute, the court may review the earlier versions of the law, or examine the whole act to discern its evident purpose, or consider the problem that the statute was enacted to remedy. *United Pharmacal Co. of Missouri, Inc. v. Missouri Bd. of Pharmacy*, 208 S.W.3d 907 (Mo. 2006).  
Edwards v. Department of Children & Youth Services, 271 Ga. 890, 525 S.E.2d 83 (2000).

2  
3           Crossroads Ford Truck Sales, Inc. v. Sterling Truck Corp., 2011 IL 111611, 355 Ill. Dec. 400, 959 N.E.2d 1133 (Ill. 2011).

4           Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 118 S. Ct. 998, 140 L. Ed. 2d 201 (1998).

5           Wichelman v. Messner, 250 Minn. 88, 83 N.W.2d 800, 71 A.L.R.2d 816 (1957).

6           Olsen v. Eagle Mountain City, 2011 UT 10, 248 P.3d 465 (Utah 2011).

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## 73 Am. Jur. 2d Statutes § 72

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 2. Purpose of, or Reason for, Statute

## § 72. Determination of purpose

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 184

The purpose of a statute is to be gathered from the whole act.<sup>1</sup> In determining such purpose, resort may be had not only to the context<sup>2</sup> but also to the structure<sup>3</sup> and scheme<sup>4</sup> of the act, and in some cases, to its historical background<sup>5</sup> or legislative history.<sup>6</sup>

In determining the purpose of a statute, or the mischief to be remedied, recourse may be had to recitals thereof in the title<sup>7</sup> or preamble.<sup>8</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

When interpreting a statute, a court must interpret the relevant words not in a vacuum, but with reference to the statutory context, structure, history, and purpose. [Abramski v. U.S.](#), 134 S. Ct. 2259 (2014).

### [END OF SUPPLEMENT]

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Footnotes

1           Alexander v. Cosden Pipe Line Co., 290 U.S. 484, 54 S. Ct. 292, 78 L. Ed. 452 (1934); State v. Douglas,  
2           70 S.D. 203, 16 N.W.2d 489 (1944).  
3           State v. Douglas, 70 S.D. 203, 16 N.W.2d 489 (1944).  
4           U.S. v. Cooper Corporation, 312 U.S. 600, 61 S. Ct. 742, 85 L. Ed. 1071 (1941); State v. Douglas, 70 S.D.  
5           203, 16 N.W.2d 489 (1944).  
6           U.S. v. Cooper Corporation, 312 U.S. 600, 61 S. Ct. 742, 85 L. Ed. 1071 (1941).  
7           State v. Douglas, 70 S.D. 203, 16 N.W.2d 489 (1944).  
8           Matson Nav. Co. v. U.S., 284 U.S. 352, 52 S. Ct. 162, 76 L. Ed. 336 (1932); State v. Douglas, 70 S.D. 203,  
9           16 N.W.2d 489 (1944).  
10          United States v. Katz, 271 U.S. 354, 46 S. Ct. 513, 70 L. Ed. 986 (1926).  
11          As to the use of the title in construing statutes, generally, see § 99.  
12          Prewitt v. Warfield, 203 Ark. 137, 156 S.W.2d 238 (1941).  
13          As to the use of the preamble in construing statutes, generally, see § 101.

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## 73 Am. Jur. 2d Statutes § 73

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 2. Purpose of, or Reason for, Statute

## § 73. Determination of purpose—Effect of words of statute upon purpose

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 184

In some instances, the purpose of a statute is expressly stated therein.<sup>1</sup> When the legislature states the purpose that underlies a statute, the court is to interpret the statute in light of that purpose.<sup>2</sup> If the words of a statute are clear, a court may not alter them to accomplish a purpose that does not appear on the face of the statute or from its legislative history.<sup>3</sup> Alternatively, as sometimes stated, the "plain purpose" of legislation is determined in the first instance with reference to the plain language of the statute itself.<sup>4</sup> A court will look to the statutory text to determine the purpose of a statute because the purpose of an enactment is embedded in its words even though the purpose is not always pedantically expressed in words.<sup>5</sup>

In the interpretation of a statute of ambiguous terminology, the proper course is to adopt that sense of the words which promotes in the fullest manner the object of the statute.<sup>6</sup> The general rule is that the words of a statute should receive their ordinary acceptation and significance where such construction is consonant, and not at variance, with the purpose of the statute, and does not thwart or defeat the same,<sup>7</sup> or where it is not obvious from the statute that the evil to be suppressed, or the remedy to be advanced, requires that the construction be limited or enlarged.<sup>8</sup>

The rule permitting departure from the literal meaning of a statute has no application where the literal meaning appears to be consonant with the purpose of the statute.<sup>9</sup> On the other hand, the rule that words of a statute are to be taken in their ordinary sense yields when necessary to effectuate the real purpose of the lawgiver,<sup>10</sup> or whenever the case is clearly within the mischief sought to be prevented,<sup>11</sup> and it is proper to depart from the usual and natural,<sup>12</sup> or literal, meaning of words used in a statute, where the application of the literal or commonly accepted meaning would operate to defeat the purpose of the statute.<sup>13</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Vague notions of statute's basic purpose are inadequate to overcome the words of its text regarding specific issue under consideration. [Montanile v. Board of Trustees of Nat. Elevator Industry Health Benefit Plan](#), 136 S. Ct. 651 (2016).

### [END OF SUPPLEMENT]

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#### Footnotes

- 1 Street v. Lincoln Safe Deposit Co., 254 U.S. 88, 41 S. Ct. 31, 65 L. Ed. 151, 10 A.L.R. 1548 (1920).
- 2 Brunton v. Nuvell Credit Corp., 2010 WI 50, 325 Wis. 2d 135, 785 N.W.2d 302 (2010).
- 3 Kalway v. City of Berkeley, 151 Cal. App. 4th 827, 60 Cal. Rptr. 3d 477 (1st Dist. 2007).
- 4 Board of Governors of Federal Reserve System v. Dimension Financial Corp., 474 U.S. 361, 106 S. Ct. 681, 88 L. Ed. 2d 691 (1986).
- 5 Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 113 S. Ct. 716, 121 L. Ed. 2d 656 (1993).
- 6 Rountree Corp. v. City of Richmond, 188 Va. 701, 51 S.E.2d 256 (1949).
- 7 Helvering v. Hammel, 311 U.S. 504, 61 S. Ct. 368, 85 L. Ed. 303, 131 A.L.R. 1481 (1941).
- 8 People v. Shakun, 251 N.Y. 107, 167 N.E. 187, 64 A.L.R. 1066 (1929).
- 9 Helvering v. Hammel, 311 U.S. 504, 61 S. Ct. 368, 85 L. Ed. 303, 131 A.L.R. 1481 (1941).
- 10 Sweeney v. Sweeney, 96 Vt. 196, 118 A. 882, 26 A.L.R. 1066 (1922).
- 11 Young v. Regents of University of Kansas, 87 Kan. 239, 124 P. 150 (1912).
- 12 Helvering v. Hammel, 311 U.S. 504, 61 S. Ct. 368, 85 L. Ed. 303, 131 A.L.R. 1481 (1941).
- 13 Helvering v. Hammel, 311 U.S. 504, 61 S. Ct. 368, 85 L. Ed. 303, 131 A.L.R. 1481 (1941); Marina Village v. California Coastal Zone Conservation Com., 61 Cal. App. 3d 388, 132 Cal. Rptr. 120 (2d Dist. 1976).

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## 73 Am. Jur. 2d Statutes § 74

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 74. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 218, 220

In case of doubt as to the meaning of a statute, the courts generally may resort to contemporaneous construction of the provision,<sup>1</sup> especially where such construction has prevailed for a long period of time.<sup>2</sup> This rule has been applied to a contemporaneous construction of another statute<sup>3</sup> or another provision of the same statute, involving similar considerations.<sup>4</sup>

In the construction of a statute, the court may take into consideration the previous practical construction of the statute,<sup>5</sup> or the manner in which the statute has been interpreted by the general public,<sup>6</sup> or by those affected by the law, especially where such practical construction has been long continued.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

When the United States Supreme Court applies state law, views of the State's attorney general, while attracting respectful consideration, do not garner controlling weight. [Animal Science Products, Inc. v. Hebei Welcome Pharmaceutical Co. Ltd.](#), 138 S. Ct. 1865 (2018).

Reasonable statutory interpretation by an agency must account for both the specific context in which language is used and the broader context of the statute as a whole. [Utility Air Regulatory Group v. E.P.A.](#), 134 S. Ct. 2427 (2014).

The attorney general's interpretation of the Public Records Act (PRA) is not binding on the Supreme Court. [West's RCWA 42.56.001 et seq.](#); WAC 44-14-03001(3). [Nissen v. Pierce County, 183 Wash. 2d 863, 357 P.3d 45 \(2015\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

- 1           [Good Samaritan Hosp. v. Shalala, 508 U.S. 402, 113 S. Ct. 2151, 124 L. Ed. 2d 368 \(1993\)](#).
- 2           [New England Mut. Life Ins. Co. v. Reece, 169 Tenn. 84, 83 S.W.2d 238 \(1935\)](#).
- 3           [City of Louisville v. Kesselring, 257 S.W.2d 599 \(Ky. 1953\)](#).
- 4           [Scharfeld v. Richardson, 133 F.2d 340, 145 A.L.R. 980 \(App. D.C. 1942\)](#).
- 5           [Culpepper v. Ocheltree, 256 U.S. 483, 41 S. Ct. 579, 65 L. Ed. 1054 \(1921\)](#).
- 6           [In re Stupack, 274 N.Y. 198, 8 N.E.2d 485, 110 A.L.R. 1158 \(1937\)](#).
- 7           [Inland Waterways Corporation v. Young, 309 U.S. 517, 60 S. Ct. 646, 84 L. Ed. 901 \(1940\)](#).

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## 73 Am. Jur. 2d Statutes § 75

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 75. Weight of contemporaneous constructions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 218

If there is ambiguity in the language of the statute, the understanding and application of the statute when it first comes into operation, sanctioned by long acquiescence on the part of the legislature and judicial tribunals, are the strongest evidence that it has been rightly explained in practice.<sup>1</sup>

The practical construction given a statute for a long period of time has been considered strong evidence of the meaning of the law.<sup>2</sup> Such contemporaneous or practical construction is treated by the courts as of importance<sup>3</sup> and as entitled to great weight,<sup>4</sup> respect,<sup>5</sup> and persuasive influence.<sup>6</sup> Indeed, the practical construction of a statute is generally presumed to be the true one.<sup>7</sup> Thus, it should not be disturbed, disregarded, or overturned except for cogent or convincing reasons,<sup>8</sup> such as its contravention of the constitution,<sup>9</sup> or unless it is clear that such construction is erroneous<sup>10</sup> and operates to defeat the manifest purpose of the statute<sup>11</sup> and the intention of the legislature as expressed by the language employed.<sup>12</sup> Only compelling language in the statute itself will warrant the rejection of a construction long and generally accepted, especially where overturning the established practice will have far-reaching consequences.<sup>13</sup> Where the meaning of a statute is plain, however, a contemporaneous or practical construction thereof will not be permitted to control, modify, destroy, abrogate, contradict, enlarge, or restrict that meaning.<sup>14</sup>

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Footnotes

1           New York Cent. R. Co. v. Public Utilities Commission, 171 Ohio St. 365, 14 Ohio Op. 2d 114, 171 N.E.2d  
503 (1960).

2           Wright v. Central of Georgia Ry. Co., 236 U.S. 674, 35 S. Ct. 471, 59 L. Ed. 781 (1915).

3           West v. Boston & M.R.R., 81 N.H. 522, 129 A. 768, 42 A.L.R. 176 (1925).

4           Niagara Falls Urban Renewal Agency v. O'Hara, 57 A.D.2d 471, 394 N.Y.S.2d 951 (4th Dep't 1977).

5           Bumpus v. Continental Baking Co., 124 F.2d 549, 140 A.L.R. 1258 (C.C.A. 6th Cir. 1941).

6           Inland Waterways Corporation v. Young, 309 U.S. 517, 60 S. Ct. 646, 84 L. Ed. 901 (1940).

7           U.S. v. Chicago, St. P., M. & O. Ry. Co., 43 F.2d 300, 71 A.L.R. 507 (C.C.A. 8th Cir. 1930).

8           State v. Coloff, 125 Mont. 31, 231 P.2d 343 (1951).

9           Stillman v. Lynch, 56 Utah 540, 192 P. 272, 12 A.L.R. 552 (1920).

10          State ex rel. Goshen Irr. Dist. v. Hunt, 49 Wyo. 497, 57 P.2d 793 (1936).

11          State ex inf. Harvey v. Missouri Athletic Club, 261 Mo. 576, 170 S.W. 904 (1914).

12          Mathews v. Mathews, 1939 OK 450, 186 Okla. 245, 96 P.2d 1054, 139 A.L.R. 202 (1939).

13          Maynard v. Elliott, 283 U.S. 273, 51 S. Ct. 390, 75 L. Ed. 1028 (1931).

14          Board of Road Com'rs of Wayne County v. Lingeman, 293 Mich. 229, 291 N.W. 879 (1940).

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## 73 Am. Jur. 2d Statutes § 76

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 76. Construction by attorneys and legal publications

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 218

In interpreting a statute, a construction of the provision acted on generally by the bar of the state for many years is entitled to consideration.<sup>1</sup> In this regard, in some instances, the meaning publicly given a statute by long professional usage has been presumed to be the true one<sup>2</sup> and regarded as one which should not be lightly changed.<sup>3</sup> Although a mere magazine article is not controlling on the courts as to the meaning of a statute,<sup>4</sup> views taken by legal commentators have been taken into consideration in interpreting a statute.<sup>5</sup>

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### Footnotes

- 1 *Gorman v. City of Phoenix*, 76 Ariz. 35, 258 P.2d 424 (1953).
- 2 *Romero v. International Terminal Operating Co.*, 358 U.S. 354, 79 S. Ct. 468, 3 L. Ed. 2d 368 (1959); *Franklin Light & Power Co. v. Southern Cities Power Co.*, 164 Tenn. 171, 47 S.W.2d 86 (1932).
- 3 *Gorman v. City of Phoenix*, 76 Ariz. 35, 258 P.2d 424 (1953).
- 4 *Camas Stage Co. v. Kozer*, 104 Or. 600, 209 P. 95, 25 A.L.R. 27 (1922).
- 5 *First Trust & Sav. Bank of Zanesville, Ohio v. Fidelity-Philadelphia Trust Co.*, 214 F.2d 320, 50 A.L.R.2d 1218 (3d Cir. 1954).

## 73 Am. Jur. 2d Statutes § 77

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 77. Construction by courts in earlier cases

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 220

When construing statutes, courts presume that the legislature is aware of the judicial construction placed upon its enactments<sup>1</sup> and that the statute was enacted in the light of the judicial construction that the prior enactment had received<sup>2</sup> or in the light of such existing judicial decisions as have a direct bearing upon it.<sup>3</sup> Such earlier decisions will accordingly be taken into consideration,<sup>4</sup> and the legislature is presumed to have adopted prior judicial constructions of a law unless a contrary intention is expressed in the new version.<sup>5</sup> A prior interpretation of a statute is applied when courts subsequently consider the same statute.<sup>6</sup> A judicial construction of a statute is an authoritative statement of what the statute meant before, as well as after the decision of the case giving rise to that construction.<sup>7</sup>

A manifest intention to alter the effect of a statute is more readily followed by the courts where the change is apparently in pursuance of a suggestion by the court in the decision of a case involving an application of the former statute.<sup>8</sup> However, resort may not be had to decisions construing the earlier statute where language justifying a certain construction of the original act is eliminated in an amendment, leaving the language of the act as amended plain and unequivocal.<sup>9</sup> Similarly, the judicial construction placed upon a specific provision of a statute prior to the enactment of a general law upon the subject is not controlling where the two acts are essentially dissimilar.<sup>10</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

Supreme Court normally assumes that Congress is aware of relevant judicial precedent when it enacts a new statute. [Guerrero-Lasprilla v. Barr, 140 S. Ct. 1062 \(2020\)](#).

The settled judicial construction of a particular statute is relevant in ascertaining statutory meaning. [University of Texas Southwestern Medical Center v. Nassar, 133 S. Ct. 2517 \(2013\)](#).

**[END OF SUPPLEMENT]**

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**Footnotes**

- 1      [People v. Giordano, 42 Cal. 4th 644, 68 Cal. Rptr. 3d 51, 170 P.3d 623 \(2007\); State v. Orr, 291 Conn. 642, 969 A.2d 750 \(2009\); Com. v. Porges, 460 Mass. 525, 952 N.E.2d 917 \(2011\)](#).  
The Supreme Court normally assumes that when Congress enacts statutes, it is aware of relevant judicial precedent. [Merck & Co., Inc. v. Reynolds, 130 S. Ct. 1784, 176 L. Ed. 2d 582 \(2010\)](#).
- 2      [People v. Giordano, 42 Cal. 4th 644, 68 Cal. Rptr. 3d 51, 170 P.3d 623 \(2007\)](#).
- 3      [Bailey v. Norfolk and Western Ry. Co., 206 W. Va. 654, 527 S.E.2d 516 \(1999\)](#).
- 4      [District of Columbia v. Murphy, 314 U.S. 441, 62 S. Ct. 303, 86 L. Ed. 329 \(1941\)](#).
- 5      [Essex Ins. Co. v. Zota, 985 So. 2d 1036 \(Fla. 2008\)](#).  
Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change. [Forest Grove School Dist. v. T.A., 557 U.S. 230, 129 S. Ct. 2484, 174 L. Ed. 2d 168, 245 Ed. Law Rep. 551 \(2009\)](#).  
Where a statute has been construed by judicial decision, and that construction is not altered by subsequent legislation, it must be presumed that the legislature is aware of the judicial construction and approves of it. [Big Creek Lumber Co. v. County of Santa Cruz, 38 Cal. 4th 1139, 45 Cal. Rptr. 3d 21, 136 P.3d 821 \(2006\)](#), as modified, (Aug. 30, 2006).
- 6      [State v. Grady, 2007 WI 81, 302 Wis. 2d 80, 734 N.W.2d 364 \(2007\)](#).
- 7      [AT & T Corp. v. Hulteen, 556 U.S. 701, 129 S. Ct. 1962, 173 L. Ed. 2d 898 \(2009\); McClung v. Employment Development Dept., 34 Cal. 4th 467, 20 Cal. Rptr. 3d 428, 99 P.3d 1015 \(2004\)](#).
- 8      [State of Tennessee v. Union & Planters' Bank, 152 U.S. 454, 14 S. Ct. 654, 38 L. Ed. 511 \(1894\)](#).
- 9      [Kimbrow v. Kimbro, 191 Tenn. 316, 232 S.W.2d 354, 19 A.L.R.2d 1045 \(1950\)](#).
- 10     [People ex rel. Nelson v. Wiersema State Bank, 361 Ill. 75, 197 N.E. 537, 101 A.L.R. 501 \(1935\)](#).

## 73 Am. Jur. 2d Statutes § 78

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 78. Words judicially construed

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 212.6

Legislatures are presumed by the courts to have used statutory terms under consideration in their judicially established meaning<sup>1</sup> in the absence of an appearance of anything to indicate a different intention.<sup>2</sup> That is, when a legislature uses language in a statute that has received definitive judicial construction, courts presume that it intended to adopt that construction.<sup>3</sup> When a court has interpreted statutory terms identical to those currently under consideration, the court relies on those past interpretations.<sup>4</sup> When judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute indicates, as a general matter, the intent to incorporate its judicial interpretations as well.<sup>5</sup> However, the rule that a phrase in an earlier statute that is used in a later statute is given the same judicial construction does not apply where the expression is not reenacted with the same limitations.<sup>6</sup> Moreover, a judicial determination of the meaning of an expression in a statute is supplanted by a subsequent statutory construction of that expression both as to the original statutes and as to later acts dealing with the same subject.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Although background presumptions can inform the understanding of a statutory word or phrase, those presumptions must exist at the time of enactment. [Tanzin v. Tanvir](#), 141 S. Ct. 486 (2020).

If a word or phrase in a statute has been given a uniform interpretation by inferior courts, a later version of that act perpetuating the wording is presumed to carry forward that interpretation. [Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.](#), 135 S. Ct. 2507 (2015).

Under the prior-construction canon of statutory interpretation, when judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute is presumed to incorporate that interpretation. [Armstrong v. Exceptional Child Center, Inc.](#), 135 S. Ct. 1378 (2015).

Courts may look to similar statutes as an aid to construction because it is presumed that statutes relating to the same subject are governed by a single spirit and policy. [Skaperdas v. Country Cas. Ins. Co.](#), 2015 IL 117021, 390 Ill. Dec. 94, 28 N.E.3d 747 (Ill. 2015).

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#### Footnotes

- 1 [Gilmore v. Preferred Accident Ins. Co.](#), 283 N.Y. 92, 27 N.E.2d 515, 129 A.L.R. 986 (1940).
- 2 [Lapland v. Stearns](#), 79 N.D. 62, 54 N.W.2d 748 (1952).
- 3 [Zellerino v. Brown](#), 235 Cal. App. 3d 1097, 1 Cal. Rptr. 2d 222 (3d Dist. 1991).
- 4 [Jackson County v. State, Dept. of Natural Resources](#), 2006 WI 96, 293 Wis. 2d 497, 717 N.W.2d 713 (2006).
- 5 [Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit](#), 547 U.S. 71, 126 S. Ct. 1503, 164 L. Ed. 2d 179 (2006).
- 6 [Rauch v. Board of Com'rs of Marion County](#), 72 Ind. App. 412, 124 N.E. 704 (1919).
- 7 [Plummer v. U.S.](#), 224 U.S. 137, 32 S. Ct. 467, 56 L. Ed. 697 (1912).

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## 73 Am. Jur. 2d Statutes § 79

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 79. Construction by foreign courts as aid in interpretation of local statutes

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 226

### A.L.R. Library

[Uniform Judicial Notice of Foreign Law Act, 23 A.L.R.2d 1437](#)

### Trial Strategy

[Law of Foreign Jurisdiction, 21 Am. Jur. Proof of Facts 2d 1](#)

A court may give decisions of another state great weight where they construe statutory language identical or similar to the statutory language under consideration, particularly where the forum state's law was modeled after that of the other state.<sup>1</sup> Similarly, where federal and state statutes are similar and are intended to accomplish the same objects, state courts, in construing the state statutes, will be strongly inclined to follow federal court construction, especially where the state law was purposely modeled on the corresponding federal statute.<sup>2</sup>

As a general rule, where a question of statutory construction is one of novel impression, it is proper to resort to decisions of courts of other states construing statutory language which is identical or of similar import.<sup>3</sup> Indeed, it is highly desirable that a statute be given a similar interpretation by the courts of the several states where it is in force.<sup>4</sup> In interpreting the state version of a uniform statute, state courts may look to the decisions of other states in interpreting the uniform act.<sup>5</sup> Also, in construing and applying the state version of a uniform act, a court must consider the need to promote uniformity among the states that have enacted it.<sup>6</sup> Where a local statute is similar to a federal statute which has been construed by the Supreme Court of the United States, such construction is entitled to great weight.<sup>7</sup> However, such decisions of foreign courts are not conclusive.<sup>8</sup> In this regard, the view has been followed that if a state statute is patterned after a federal law, on the same subject, it will take the same construction in the state courts as its prototype has been given in the federal courts insofar as that construction is harmonious with the spirit and policy of the state legislation on the subject.<sup>9</sup> If the statute of the foreign state or federal government is substantially different from that of the local jurisdiction, the decisions of the courts of the foreign jurisdiction interpreting their statute do not furnish a safe guide for the construction of the local statute.<sup>10</sup> Thus, sister state decisions construing statutes substantially different from, though concerning the same general subject as, the one under consideration will be accorded little weight.<sup>11</sup>

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Footnotes

1                   Am. Jur. 2d, Courts § 144.

2                   Am. Jur. 2d, Courts § 146.

3                   Witherspoon v. Salm, 251 Ind. 575, 243 N.E.2d 876 (1969).

As to decisions of courts in foreign states as an aid to the construction of statutes adopted from such states, see §§ 22 to 226.

4                   Shannon v. U.S., 512 U.S. 573, 114 S. Ct. 2419, 129 L. Ed. 2d 459 (1994).

5                   Beahringer v. Page, 204 Ill. 2d 363, 273 Ill. Dec. 784, 789 N.E.2d 1216 (2003).

6                   In re Marriage of Gulla and Kanaval, 234 Ill. 2d 414, 334 Ill. Dec. 566, 917 N.E.2d 392 (2009).

7                   Coulter v. Wisconsin Dept. of Taxation, 259 Wis. 115, 47 N.W.2d 303 (1951).

8                   Jones v. Kmart Corp., 17 Cal. 4th 329, 70 Cal. Rptr. 2d 844, 949 P.2d 941 (1998).

9                   Pasco County School Bd. v. Florida Public Employees Relations Commission, 353 So. 2d 108 (Fla. Dist. Ct. App. 1st Dist. 1977).

10                  State v. Hughes, 3 Conn. Cir. Ct. 181, 209 A.2d 872, 14 A.L.R.3d 1166 (App. Div. 1965).

11                  Am. Jur. 2d, Courts § 144.

## 73 Am. Jur. 2d Statutes § 80

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### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 80. Construction by foreign courts as aid in interpretation of foreign statutes

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 226

### A.L.R. Library

[Comment Note.—Pleading and proof of law of foreign country, 75 A.L.R.3d 177](#)

[Comment Note.—Presumption as to law of foreign countries, 75 A.L.R.2d 529](#)

[Uniform Judicial Notice of Foreign Law Act, 23 A.L.R.2d 1437](#)

### Trial Strategy

[Law of Foreign Jurisdiction, 21 Am. Jur. Proof of Facts 2d 1](#)

In applying the law of a sister state, the forum court generally must follow the other state's judicial decisions as to the law of that state as such law is derived from that state's statutes.<sup>1</sup> Similarly, the construction of a statute of a foreign country should be

governed by the decisions of the courts of that country.<sup>2</sup> If the court of the forum is not afforded such aid, it must give to the statute the best construction it is able to give in the same manner that it should construe an act of its own legislature.<sup>3</sup>

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Footnotes

1                   Am. Jur. 2d, Courts § 145.

2                   Shaw v. Goebel Brewing Co., 202 F. 408 (C.C.A. 6th Cir. 1913).

3                   McArthur v. Maryland Casualty Co., 184 Miss. 663, 186 So. 305, 120 A.L.R. 846 (1939).

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## 73 Am. Jur. 2d Statutes § 81

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### a. In General

## § 81. Statements of executive officers, administrative officers, or agencies

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 219(1) to 219(10)

### A.L.R. Library

[Construction and Application of "Chevron Deference" to Administrative Action by United States Supreme Court, 3 A.L.R. Fed. 2d 25](#)

In construing a statute which is ambiguous or of doubtful meaning, the courts may resort to messages of the executive to the legislature relative to the subject.<sup>1</sup>

Consistent administrative construction of a statute,<sup>2</sup> by the agency charged with administering the statute, is accorded substantial judicial deference.<sup>3</sup> Although an agency may not have formally interpreted a statute, the agency's construction may still merit some deference whatever its form, given the specialized experience and broader investigations and information available to the agency.<sup>4</sup> In the context of judicial review of an administrative agency's decision, deference to the agency is greatest when the agency must apply special training or expertise in administering a statute.<sup>5</sup> Courts regularly defer to the governmental agency charged with responsibility for administration of a statute in those cases where interpretation or application involves knowledge and understanding of underlying operational practices or entails an evaluation of factual data and inferences to be drawn therefrom, and the agency's interpretation is not irrational or unreasonable.<sup>6</sup> A court may rely on the expertise of a state

agency in interpreting a law where highly specialized issues are involved and where agency expertise would, therefore, be of assistance in discerning the presumed intent of the legislature.<sup>7</sup> An open-ended and potentially vague statutory term is highly susceptible to administrative interpretation subject to judicial deference.<sup>8</sup>

However, a court need accept only those agency interpretations of statutes that are reasonable in light of principles of construction that courts normally employ.<sup>9</sup> When a statute speaks clearly to the issue at hand, the court must give effect to the unambiguously expressed intent of Congress, but when the statute is silent or ambiguous, the Court must defer to a reasonable construction by the agency charged with its implementation.<sup>10</sup> If the language of a statute is open or ambiguous, that is, if Congress left a "gap" for the agency to fill, then court must uphold the agency's interpretation as long as it is reasonable.<sup>11</sup> If Congress has directly spoken to an issue, then any agency interpretation contradicting what Congress has said would be unreasonable.<sup>12</sup>

Despite that deference, an administrative agency's interpretation will not be followed when the agency extends a statute to give it a greater effect than its language permits. If the agency interpretation of a statute is plainly at odds with the plain meaning of the statute, the agency interpretation will be set aside.<sup>13</sup> Despite considerable deference granted to administrative agency to interpret and apply a statute which it administers, the court retains the prerogative to determine whether an agency's interpretation and conclusions of law are correct and to remedy the situation if found to be wrong.<sup>14</sup>

Deference to administrative agencies charged with enforcing a statute is not required when an issue is one of pure statutory analysis. Even if no deference is owed to an agency's reading of a statute, a court can nevertheless defer to an agency's definition of a term of art contained within a statute.<sup>15</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

An administrative agency's interpretation of a statute receives controlling weight, unless it is arbitrary, capricious, or manifestly contrary to the statute. *Henson v. Fidelity Nat. Financial Inc.*, 18 F. Supp. 3d 1006 (C.D. Cal. 2014).

*Chevron* allows agencies to choose among competing reasonable interpretations of a statute; it does not license interpretive gerrymanders under which an agency keeps parts of statutory context it likes while throwing away parts it does not. *Michigan v. E.P.A.*, 135 S. Ct. 2699 (2015).

An agency interpretation that is inconsistent with the design and structure of the statute as a whole does not merit deference. *Utility Air Regulatory Group v. E.P.A.*, 134 S. Ct. 2427 (2014).

Under the Administrative Procedure Act (APA), an agency interpreting its own statute receives substantial deference and its interpretation is granted controlling weight unless plainly erroneous or inconsistent with the regulation. *5 U.S.C.A. § 701. Town of Superior v. U.S. Fish and Wildlife Service*, 913 F. Supp. 2d 1087 (D. Colo. 2012), injunction pending appeal denied, 2012 WL 6737183 (D. Colo. 2012).

In Indiana, an interpretation of a statute by an administrative agency charged with the duty of enforcing the statute is entitled to great weight, unless its interpretation would be inconsistent with the statute itself. *Planned Parenthood of Indiana and Kentucky, Inc. v. Commissioner, Indiana State Dept. of Health*, 984 F. Supp. 2d 912 (S.D. Ind. 2013).

If an agency's interpretation is contained in a regulation or other form intended to have the force of law, it is entitled to substantial deference under *Chevron*; however, where the agency's interpretation of the statute is contained in a more informal medium not intended to have the force of law it is afforded a lesser level of deference known as *Skidmore* deference. [Forest City Residential Management, Inc. ex rel. Plymouth Square Ltd. Dividend Housing Ass'n v. Beasley](#), 71 F. Supp. 3d 715 (E.D. Mich. 2014).

When a court is faced with two reasonable interpretations of a statute, one of which is supplied by an administrative agency charged with enforcing the statute, the court should defer to the agency; if the court determines that the agency's interpretation is reasonable, it should terminate its analysis and not address the reasonableness of the other party's proposed interpretation. [Com. Land Title Ins. Co. v. Robertson](#), 5 N.E.3d 394 (Ind. Ct. App. 2014).

Even though the legislature may explicitly vest the authority to interpret an entire statutory scheme with an agency, the fact that an agency has been granted rule making authority does not give an agency the authority to interpret all statutory language, in context of determining deference owed to agency's decision on judicial review. I.C.A. § 17A.19(10), (11)(b). [Gartner v. Iowa Dept. of Public Health](#), 830 N.W.2d 335 (Iowa 2013).

An administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts; furthermore, the expertise of the agency in its own field should be respected. [Motor Vehicle Admin. v. Sanner](#), 434 Md. 20, 73 A.3d 214 (2013).

No deference is due to an agency's interpretation of a statute if the agency's interpretation is contrary to the unambiguous terms or best reading of a statute. [Jones County Sch. Dist. v. Dept. of Revenue](#), 111 So. 3d 588 (Miss. 2013).

Administrative gloss is placed upon an ambiguous statutory clause when those responsible for its implementation interpret the clause in a consistent manner and apply it to similarly situated applicants over a period of years without legislative interference. [Bovaird v. New Hampshire Department of Administrative Services](#), 103 A.3d 1207 (N.H. 2014).

In an administrative appeal, a court is not bound by the agency's interpretation of a statute and may substitute its own independent judgment for that of the agency because it is the function of the courts to interpret the law. [New Mexico Atty. Gen. v. New Mexico Public Regulation Com'n](#), 2013-NMSC-042, 309 P.3d 89 (N.M. 2013).

When an appeal from a decision of an administrative agency involves the interpretation of a statute, a legal question, the Supreme Court will affirm the agency's order unless it finds the agency's order is not in accordance with the law. [Herrman v. Director, North Dakota Dept. of Transp.](#), 2014 ND 129, 847 N.W.2d 768 (N.D. 2014).

The Supreme Court applies a deferential standard of review to agency interpretations of statutes legislatively entrusted to the agency's administration, and, thus, absent compelling indication of error, the Court will uphold the Commissioner of Taxes' interpretation of tax statutes. [Quazzo v. Department of Taxes](#), 2014 VT 81, 103 A.3d 458 (Vt. 2014).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Majewski v. Broadalbin-Perth Cent. School Dist.](#), 91 N.Y.2d 577, 673 N.Y.S.2d 966, 696 N.E.2d 978 (1998). As to construction of the law by administrative agencies, generally, see [Am. Jur. 2d, Administrative Law](#) §§ 70 to 81.
- 2 [Ste. Marie v. Riverside County Regional Park and Open-Space District](#), 46 Cal. 4th 282, 93 Cal. Rptr. 3d 369, 206 P.3d 739 (2009); [Milwaukee Symphony Orchestra, Inc. v. Wisconsin Dept. of Revenue](#), 2010 WI 33, 324 Wis. 2d 68, 781 N.W.2d 674 (2010).

When an agency repeatedly alters its interpretation of a statute, the persuasive power of those interpretations is diminished. [Salazar v. Butterball, LLC](#), 644 F.3d 1130 (10th Cir. 2011).

When an agency's construction of a statute flatly contradicts its original interpretation, it is not entitled to significant deference. [Murphy v. Kenneth Cole Productions, Inc.](#), 40 Cal. 4th 1094, 56 Cal. Rptr. 3d 880, 155 P.3d 284 (2007).

The court affords an agency's interpretation and application of a statute no deference, reviewing it de novo, when the issue before the agency is clearly one of first impression or when an agency's position on an issue has been so inconsistent as to provide no real guidance. [deBoer Transp., Inc. v. Swenson](#), 2011 WI 64, 335 Wis. 2d 599, 804 N.W.2d 658 (2011).

3 Ste. Marie v. Riverside County Regional Park and Open-Space District, 46 Cal. 4th 282, 93 Cal. Rptr. 3d 369, 206 P.3d 739 (2009); Hundley v. Marsh, 459 Mass. 78, 944 N.E.2d 127 (2011); Milwaukee Symphony Orchestra, Inc. v. Wisconsin Dept. of Revenue, 2010 WI 33, 324 Wis. 2d 68, 781 N.W.2d 674 (2010).

An interpretation of an ambiguous statute may receive substantial deference, pursuant to Chevron, but Chevron deference is warranted only when it appears that Congress delegated authority to the agency generally to make rules carrying the force of law and that the agency interpretation claiming deference was promulgated in the exercise of that authority; otherwise, the interpretation is entitled to respect only to the extent it has the power to persuade. [Gonzales v. Oregon](#), 546 U.S. 243, 126 S. Ct. 904, 163 L. Ed. 2d 748 (2006).

4 [Northern California River Watch v. Wilcox](#), 633 F.3d 766 (9th Cir. 2011).

5 [Frank v. Kansas Dept. of Agriculture, Div. of Water Resources](#), 40 Kan. App. 2d 1024, 198 P.3d 195 (2008); [Milwaukee Symphony Orchestra, Inc. v. Wisconsin Dept. of Revenue](#), 2010 WI 33, 324 Wis. 2d 68, 781 N.W.2d 674 (2010).

6 New York State Superfund Coalition, Inc. v. New York State Dept. of Environmental Conservation, 18 N.Y.3d 289, 938 N.Y.S.2d 266, 961 N.E.2d 657 (2011).

7 [Elyria Foundry Co. v. Pub. Util. Comm.](#), 118 Ohio St. 3d 269, 2008-Ohio-2230, 888 N.E.2d 1055 (2008).

8 [Washington State Dept. of Social and Health Services v. Guardianship Estate of Keffeler](#), 537 U.S. 371, 123 S. Ct. 1017, 154 L. Ed. 2d 972 (2003).

9 Morrison v. National Australia Bank Ltd., 130 S. Ct. 2869, 177 L. Ed. 2d 535, 76 Fed. R. Serv. 3d 1330 (2010).

Agency views that were reasonable, that were consistent with statutory language, and that had been held for a sufficient length of time to suggest that they reflected careful consideration, not post hoc rationalization, added force to the court's interpretation of statutory language. [Kasten v. Saint-Gobain Performance Plastics Corp.](#), 131 S. Ct. 1325, 179 L. Ed. 2d 379 (2011).

Construction of a statute by the administrative agency charged with its enforcement is entitled to serious consideration so long as the construction is reasonable and does not contradict the plain language of the statute. [Mid-Century Ins. Co. of Texas v. Ademaj](#), 243 S.W.3d 618 (Tex. 2007).

10 [Barnhart v. Thomas](#), 540 U.S. 20, 124 S. Ct. 376, 157 L. Ed. 2d 333 (2003); [Yellow Transp., Inc. v. Michigan](#), 537 U.S. 36, 123 S. Ct. 371, 154 L. Ed. 2d 377, 192 A.L.R. Fed. 643 (2002).

11 [Zuni Public School Dist. No. 89 v. Department of Educ.](#), 550 U.S. 81, 127 S. Ct. 1534, 167 L. Ed. 2d 449, 218 Ed. Law Rep. 24, 53 A.L.R. Fed. 2d 739 (2007).

12 [Entergy Corp. v. Riverkeeper, Inc.](#), 556 U.S. 208, 129 S. Ct. 1498, 173 L. Ed. 2d 369 (2009).

13 [Oberhand v. Director, Div. of Taxation](#), 193 N.J. 558, 940 A.2d 1202 (2008).

14 [Bowen v. City of Annapolis](#), 402 Md. 587, 937 A.2d 242 (2007).

15 [Suffolk Regional Off-Track Betting Corp. v. New York State Racing and Wagering Bd.](#), 11 N.Y.3d 559, 872 N.Y.S.2d 419, 900 N.E.2d 970 (2008).

## 73 Am. Jur. 2d Statutes § 82

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 82. Generally

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 214, 217.1

In determining the meaning of a statute, it is proper to consider contemporary action of the legislature although, as a rule, the intent of the legislature is indicated by its action and not by its failure to act.<sup>1</sup> Ordinarily, the court does not draw substantive conclusions on statutory construction based on legislative inaction<sup>2</sup> because legislative acquiescence is an exceedingly poor indicator of legislative intent.<sup>3</sup> Legislative inactivity is inherently ambiguous and affords the most dubious foundation for drawing positive inference when interpreting a statute.<sup>4</sup> On the other hand, the silence of the legislature, when it has authority to speak, may sometimes give rise to an implication as to the legislative purpose, the nature and extent of that implication depending on the nature of the legislative power and the effect of its exercise.<sup>5</sup> Thus, the fact that the legislature has not seen fit by amendment to express disapproval of a contemporaneous<sup>6</sup> or judicial<sup>7</sup> interpretation of a particular statute has been considered to bolster such construction of the statute. In this respect, where a judicial construction has been placed upon the language of a statute for a long period of time, so that there has been abundant opportunity for the lawmaking power to give further expression to its will, the failure to do so amounts to legislative approval and ratification of the construction placed upon the statute by the courts.<sup>8</sup> Where the practical construction of a statute is well known, the legislature may be charged with knowledge of that construction and its failure to act may be deemed an acceptance.<sup>9</sup> The court often infers legislative assent to its precedents from prolonged legislative silence.<sup>10</sup> Where the legislature chooses not to amend a statute after a judicial construction, it will be presumed that it has acquiesced in the court's statement of the legislative intent; however, this presumption is merely a jurisprudential principle, not a rule of law.<sup>11</sup> When construing a statute, courts presume that the legislature is aware of the existing law, including state Supreme Court decisions interpreting individual statutes, and presume that if the legislature disagreed with the court's interpretation, it would have amended the statute accordingly.<sup>12</sup> While legislative inaction is generally

irrelevant to the interpretation of existing statutes, nonaction by a legislative body may become significant where proposals for legislative change have been repeatedly rejected.<sup>13</sup> These rules are particularly applicable where the statute is amended in other particulars.<sup>14</sup> Congress' codification of one judge-made doctrine is to be construed, not as a license to imply others but rather as intentional rejection of those it did not codify.<sup>15</sup>

The opinions of individual legislators,<sup>16</sup> or the testimony of a member of the legislature as to the intention of the legislature in enacting a statute, may not be given consideration.<sup>17</sup> It is ultimately provisions of laws, rather than principal concerns of legislators, which govern.<sup>18</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Speculation about why a later Congress declined to adopt new legislation offers a particularly dangerous basis on which to rest an interpretation of an existing law that a different and earlier Congress did adopt. *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020).

When interpreting statutes, congressional inaction lacks persuasive significance in most circumstances. *Star Athletica, L.L.C. v. Varsity Brands, Inc.*, 137 S. Ct. 1002 (2017).

Legislative inaction after a judicial decision interpreting a statute does not necessarily imply legislative approval. *In re Marriage of Davis*, 61 Cal. 4th 846, 189 Cal. Rptr. 3d 835, 352 P.3d 401 (2015).

Witness testimony supporting or opposing a particular piece of legislation contributes to statutory interpretation, because although the comments of those witnesses do not reflect legislative intent directly, they do help indirectly by identifying the issues the Legislature sought to address. *Town of Forest Heights v. Maryland-National Capital Park and Planning Commission*, 463 Md. 469, 205 A.3d 1067 (2019).

In legislative bills, prefatory clauses sometimes characterize as significant a language change that merely clarifies an earlier ambiguous statute. *Green v. Nassif*, 426 Md. 258, 44 A.3d 321 (2012).

Ordinarily, when an appellate court judicially construes a statute and that construction does not evoke an amendment, the court presumes that the Legislature acquiesced in the court's determination of the Legislature's intent. *Armstrong v. State*, 290 Neb. 205, 859 N.W.2d 541 (2015).

When the legislature has convened many times during a period in which an administrative agency has construed a statute and it has not expressed its disapproval with that construction, the legislature's silence may be regarded as acquiescence in or approval of the agency's construction. *In re Initiative Petition No. 397, State Question No. 767*, 2014 OK 23, 326 P.3d 496 (Okla. 2014).

No presumption of legislative acquiescence in construction of statute by the public officials charged with its application attaches without publication of the construction placed upon the statute. *Loudoun County v. Richardson*, 841 S.E.2d 629 (Va. 2020).

## [END OF SUPPLEMENT]

Footnotes

1                   [Nawrocki v. Macomb County Road Com'n](#), 463 Mich. 143, 615 N.W.2d 702 (2000).  
Although the Supreme Court has sometimes relied on congressional acquiescence in an administrative regulation as evidence that the agency's interpretation comports with the statute, when there is evidence that Congress considered and rejected the precise issue presented before the Court, the Court is loath to replace the plain text and original understanding of a statute with an amended agency interpretation absent overwhelming evidence of such acquiescence. [Rapanos v. U.S.](#), 547 U.S. 715, 126 S. Ct. 2208, 165 L. Ed. 2d 159 (2006) (Per Justice Scalia with the Chief Justice and two Justices joining and one Justice concurring in the judgment).

2                   [Miklosy v. Regents of University of California](#), 44 Cal. 4th 876, 80 Cal. Rptr. 3d 690, 188 P.3d 629, 234 Ed. Law Rep. 391 (2008).  
Congressional inaction lacks persuasive significance, for purposes of statutory interpretation, because several equally tenable inferences may be drawn from such inaction, including the inference that the existing legislation already incorporated the offered change. [U.S. v. Craft](#), 535 U.S. 274, 122 S. Ct. 1414, 152 L. Ed. 2d 437 (2002).

3                   [People v. Gardner](#), 482 Mich. 41, 753 N.W.2d 78 (2008).

4                   [Roberts v. Tishman Speyer Properties, L.P.](#), 13 N.Y.3d 270, 890 N.Y.S.2d 388, 918 N.E.2d 900 (2009).

5                   [Graves v. People of State of New York ex rel. O'Keefe](#), 306 U.S. 466, 59 S. Ct. 595, 83 L. Ed. 927, 120 A.L.R. 1466 (1939).

6                   [U.S. v. Riverside Bayview Homes, Inc.](#), 474 U.S. 121, 106 S. Ct. 455, 88 L. Ed. 2d 419 (1985).

7                   [People v. Bonnetta](#), 46 Cal. 4th 143, 92 Cal. Rptr. 3d 370, 205 P.3d 279 (2009).

8                   [People v. Bonnetta](#), 46 Cal. 4th 143, 92 Cal. Rptr. 3d 370, 205 P.3d 279 (2009).

9                   [Roberts v. Tishman Speyer Properties, L.P.](#), 13 N.Y.3d 270, 890 N.Y.S.2d 388, 918 N.E.2d 900 (2009).

10                  [Freedom Financial Bank v. Estate of Boesen](#), 805 N.W.2d 802 (Iowa 2011).

11                  [Blount v. Stroud](#), 232 Ill. 2d 302, 328 Ill. Dec. 239, 904 N.E.2d 1 (2009).

12                  [Musselshell Ranch Co. v. Seidel-Joukova](#), 2011 MT 217, 362 Mont. 1, 261 P.3d 570 (2011).

13                  [Brown v. Tennessee Title Loans, Inc.](#), 328 S.W.3d 850 (Tenn. 2010).

14                  [People v. Atkins](#), 25 Cal. 4th 76, 104 Cal. Rptr. 2d 738, 18 P.3d 660 (2001).

15                  [TRW Inc. v. Andrews](#), 534 U.S. 19, 122 S. Ct. 441, 151 L. Ed. 2d 339 (2001).

16                  [Tennant v. Kuhlemeier](#), 142 Iowa 241, 120 N.W. 689 (1909).  
As to statements of members of legislative committees and those of sponsors of legislation, see § 88.

17                  [Board of Ed. of Presque Isle Tp. School Dist. No. 8, Presque Isle County v. Presque Isle County Bd. of Ed.](#), 364 Mich. 605, 111 N.W.2d 853 (1961).

18                  [Cooper Industries, Inc. v. Aviall Services, Inc.](#), 543 U.S. 157, 125 S. Ct. 577, 160 L. Ed. 2d 548 (2004).

## 73 Am. Jur. 2d Statutes § 83

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 83. Legislative proceedings in adoption of law; legislative history

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 217.1 to 217.4

"Legislative history" refers to the pre-enactment statements of those who drafted or voted for a law; it is considered persuasive by some, not because they reflect the general understanding of the disputed terms but because the legislators who heard or read those statements presumably voted with that understanding.<sup>1</sup> If the statutory language is ambiguous, a court may refer to legislative history to discern congressional intent.<sup>2</sup> However, as a general rule, where the statutory command is straightforward, there is no reason to resort to legislative history.<sup>3</sup> Alternatively, as otherwise stated, there may be no resort to the legislative history of the enactment of a statute if the language is plain and unambiguous<sup>4</sup> since legislative history is meant to clear up ambiguity, not create it.<sup>5</sup> Legislative history is not needed to determine intent when the statutory language is clear.<sup>6</sup> In construing a statute, resort to the statute's legislative history is appropriate only if the statute is reasonably subject to more than one interpretation or is otherwise ambiguous.<sup>7</sup>

Courts will look to legislative history to interpret unambiguous statutes only in rare and exceptional circumstances.<sup>8</sup> As a general rule, unambiguous language of a statute is alone determinative when construing the statute; nevertheless, the legislative history of an enactment may also be relevant and is not to be ignored even if words are clear.<sup>9</sup> The resort to legislative history in determining legislative intent is a confirmatory process; it is not undertaken to seek contradiction of the plain meaning of the statute, and in such instances, the court may find useful the context of a statute, the overall statutory scheme, and archival legislative history of relevant enactments.<sup>10</sup>

Although an expression of legislative intent in a later enactment is not binding upon a court in its construction of an earlier enacted statute, it is a factor that may be considered.<sup>11</sup> Thus, in interpreting a federal statute which is a substantial reenactment of an earlier statute, the United States Supreme Court will, where the legislative history of the later statute is scant, look to the history of the earlier statute.<sup>12</sup>

In addition, when a statute is challenged because the object to be accomplished is prohibited or a prohibited route is selected to reach a permissive destination, it is proper to look at the legislative background to ascertain legislative intent.<sup>13</sup> Indeed, where the plain language of a statute appears to settle the question presented, the United States Supreme Court will look to the statute's legislative history to determine only whether there is a clearly expressed legislative intention contrary to that language, which would require the court to question the strong presumption that Congress expresses its intent through the language it chooses.<sup>14</sup>

In evaluating conflicting legislative history of a statute in the House and in the Senate, the history in the body in which the statute originated is more persuasive.<sup>15</sup>

**Observation:**

The term "legislative history" has sometimes been used to mean the history of the evolution of statutes on the particular subject.<sup>16</sup>

To ascertain legislative intent in enacting a statute the language of which is of doubtful or ambiguous import, resort may be had to the journals or other legislative records showing the history in the legislature of the act in question while it was in process of enactment.<sup>17</sup> Although the Legislative Counsel's summary digests are not binding in statutory interpretation, they are entitled to great weight.<sup>18</sup>

Absence of specific legislative history in no way modifies the conventional judicial duty to give faithful meaning to the language that Congress adopted in light of the evident legislative purpose in enacting the law in question.<sup>19</sup>

**Observation:**

A presumption exists that historical facts in connection with the subject matter of an act, including opposing theories, were known to the legislature at the time of the adoption of the statute,<sup>20</sup> and it is a general rule of interpretation that where the language of a statute is obscure or of doubtful meaning, the court, in construing such statute, may with propriety recur to the history of the times when it was passed.<sup>21</sup> Under this rule, it is proper to consider the attending conditions or circumstances at the time of the adoption of the law.<sup>22</sup>

In its effort to discern the legislative intent informing a statute, the court may consider not only the legislature's internal written expressions of the bill's meaning and purpose but also the wider historical circumstances of the bill's enactment.<sup>23</sup>

For purposes of statutory construction, material not available to lawmakers is not considered, in the normal course, to be legislative history; after-the-fact statements by proponents of a broad interpretation are not a reliable indicator of what Congress intended when it passed the law even if it is assumed that extratextual sources are to any extent reliable for this purpose.<sup>24</sup> Post-enactment "legislative history" is not a legitimate tool of statutory interpretation.<sup>25</sup> Whatever interpretive force attaches to legislative history of a statute, the Supreme Court normally gives little weight to statements, such as those of the individual legislators, made after the bill in question has become law.<sup>26</sup>

Where the legislature has adopted a uniform act, the history behind the creation and adoption of that act is relevant.<sup>27</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Legislative history, for those who take it into account, is meant to clear up ambiguity, not create it. [Bostock v. Clayton County, Georgia, 140 S. Ct. 1731 \(2020\)](#).

Murky legislative history cannot overcome a statute's clear text and structure. [Azar v. Allina Health Services, 139 S. Ct. 1804 \(2019\)](#).

While it was not necessary, in light of clarity of statutory text, for Supreme Court, in reviewing statutory challenge to Presidential Proclamation indefinitely barring entry by nationals from six predominantly Muslim countries, to consider statutory background and legislative history for INA provision delegating authority to President to suspend entry by aliens or classes of aliens based on finding that their entry would be detrimental to interests of U.S., those sources did not suggest that President's suspension power should be limited to exigencies in which it would be difficult for Congress to react promptly; while precursor wartime statutes confined President's exclusion authority to times of war and national emergency, Congress later removed the national emergency standard, and Congress's conscious departure from its wartime statutes was far more probative than an isolated floor statement. Immigration and Nationality Act, § 212(f), [8 U.S.C.A. § 1182\(f\)](#); Presidential Proclamation No. 9645, Sept. 24, 2017, 82 Fed. Reg. 45161, 2017 WL 4231190. [Trump v. Hawaii, 138 S. Ct. 2392 \(2018\)](#).

If text of statute is clear, it needs no repetition in the legislative history, and if text is ambiguous, silence in the legislative history cannot lend any clarity. [Encino Motorcars, LLC v. Navarro, 138 S. Ct. 1134 \(2018\)](#).

Ambiguous legislative history cannot trump clear statutory language. [National Ass'n of Mfrs. v. Department of Defense, 138 S. Ct. 617 \(2018\)](#).

What Congress ultimately agrees on is the text that it enacts in a statute, not the preferences expressed by certain legislators. [N.L.R.B. v. SW General, Inc., 137 S. Ct. 929 \(2017\)](#).

Congress commonly enacts statutes that address more than precise concern that gave rise to them, and courts should not resort to legislative history to cloud statutory text that is clear. [Akiachak Native Community v. Salazar](#), 935 F. Supp. 2d 195 (D.D.C. 2013), on reconsideration in part on other grounds, [2013 WL 5428741](#) (D.D.C. 2013).

Under Puerto Rico law, when the plain language of a statute does not settle the interpretive query at issue, or when seeking additional indicia of the Legislature's intent, it is helpful to seek out and examine the legislative history of the bill, which includes the reports submitted by the Senate and House committees, as well as the Journal of Proceedings and the statement of motives. [Oquendo-Lorenzo v. Hospital San Antonio, Inc.](#), 256 F. Supp. 3d 103 (D.P.R. 2017).

In construing a statute, legislative committee reports, bill reports, and other legislative records including testimony or argument to either a house of the Legislature or one of its committees are appropriate sources from which legislative intent may be ascertained, but material showing the motive or understanding of an individual legislator, including the bill's author, his or her staff, or other interested persons, is generally not considered. [Mt. Hawley Insurance Company v. Lopez](#), 215 Cal. App. 4th 1385, 156 Cal. Rptr. 3d 771 (2d Dist. 2013).

The role of legislative history is limited to the extent it sheds reliable light on the enacting legislature's understanding of an otherwise ambiguous term, as statements by legislators or even committee reports need not reflect the purpose which a majority of the legislators believed is carried out by a statute; only unmistakable support in the history and structure of the legislation can justify a rejection of otherwise unambiguous language. [State v. Demello](#), 361 P.3d 420 (Haw. 2015).

Court of Appeals resorts to legislative history only where the language of a statute is ambiguous or where a literal construction would lead to absurd or unreasonable consequences. [People v. Barnes](#), 26 N.Y.3d 986, 19 N.Y.S.3d 471, 41 N.E.3d 336 (2015).

"Legislative history," as is used to interpret an ambiguous statute, is generally understood to encompass a retrospective review of the legislative consideration of a statute, not a review of the oxymoronic subsequent legislative history. [1 Pa.C.S.A. § 1921\(c\) \(5\). Com. v. Lynn](#), 114 A.3d 796 (Pa. 2015).

A statement of legislative intent does not trump the plain language of the statute, and such statements are not controlling even when the codified intent of the legislature speaks directly to the enacted statute. [PeaceHealth St. Joseph Medical Center v. Department of Revenue](#), 468 P.3d 1056 (Wash. 2020).

When ascertaining a statute's plain meaning, the Supreme Court will examine the statute in which the provision at issue is found, as well as related statutes or other provisions of the same act in which the provision is found; if, after this inquiry, the statute remains susceptible to more than one reasonable meaning, the statute is ambiguous and it is appropriate to resort to aids to construction, including legislative history. [Porter v. Kirkendoll](#), 449 P.3d 627 (Wash. 2019).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [District of Columbia v. Heller](#), 554 U.S. 570, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008).
- 2 Courts and agencies must respect and give effect to the sort of compromise that occurs when a key term in an important piece of legislation is the result of compromise between groups with marked but divergent interests in the contested provision. [Ragsdale v. Wolverine World Wide, Inc.](#), 535 U.S. 81, 122 S. Ct. 1155, 152 L. Ed. 2d 167 (2002).  
[Tides v. The Boeing Co.](#), 644 F.3d 809 (9th Cir. 2011), cert. denied, [132 S. Ct. 518](#), 181 L. Ed. 2d 350 (2011); [People v. Ballman](#), 15 N.Y.3d 68, 904 N.Y.S.2d 361, 930 N.E.2d 282 (2010); [Cosmopolitan Engineering Group, Inc. v. Ondeo Degremont, Inc.](#), 159 Wash. 2d 292, 149 P.3d 666 (2006).

3 U.S. v. Gonzales, 520 U.S. 1, 117 S. Ct. 1032, 137 L. Ed. 2d 132 (1997).  
4 City of Rockwall v. Hughes, 246 S.W.3d 621 (Tex. 2008).  
5 Congress's authoritative statement is the statutory text, not the legislative history. Chamber of Commerce of  
U.S. v. Whiting, 131 S. Ct. 1968, 179 L. Ed. 2d 1031 (2011).  
6 Milner v. Department of Navy, 131 S. Ct. 1259, 179 L. Ed. 2d 268 (2011); People v. Kern, 288 Mich. App.  
513, 794 N.W.2d 362 (2010).  
7 Mitchell v. State, 911 So. 2d 1211 (Fla. 2005).  
8 Ste. Marie v. Riverside County Regional Park and Open-Space District, 46 Cal. 4th 282, 93 Cal. Rptr. 3d  
369, 206 P.3d 739 (2009); State Farm Mut. Auto. Ins. Co. v. Koshy, 2010 ME 44, 995 A.2d 651 (Me. 2010);  
Smith v. City of Franklin, 159 N.H. 585, 987 A.2d 127 (2010).  
9 The mere fact that statute is awkward, or even ungrammatical, does not make it ambiguous so as to permit  
a court to resort to its legislative history in interpreting it. Lamie v. U.S. Trustee, 540 U.S. 526, 124 S. Ct.  
1023, 157 L. Ed. 2d 1024 (2004).  
10 U.S. v. Marcus, 628 F.3d 36 (2d Cir. 2010).  
11 Consedine v. Portville Cent. School Dist., 12 N.Y.3d 286, 879 N.Y.S.2d 806, 907 N.E.2d 684, 245 Ed. Law  
Rep. 393 (2009).  
12 Smith v. State, 399 Md. 565, 924 A.2d 1175 (2007).  
13 Cummins, Inc. v. Superior Court, 36 Cal. 4th 478, 30 Cal. Rptr. 3d 823, 115 P.3d 98 (2005).  
14 U.S. v. Plesha, 352 U.S. 202, 77 S. Ct. 275, 1 L. Ed. 2d 254 (1957).  
15 Great Am. Ins. Co. v. Johnson, 257 N.C. 367, 126 S.E.2d 92 (1962).  
16 I.N.S. v. Cardoza-Fonseca, 480 U.S. 421, 107 S. Ct. 1207, 94 L. Ed. 2d 434 (1987).  
17 Steiner v. Mitchell, 350 U.S. 247, 76 S. Ct. 330, 100 L. Ed. 267 (1956).  
18 City of Emmetsburg v. Gunn, 249 Iowa 297, 86 N.W.2d 829 (1957).  
19 As to the evolution of statutes on a given subject, insofar as it bears on the question of statutory construction,  
see § 97.  
20 Negonsott v. Samuels, 507 U.S. 99, 113 S. Ct. 1119, 122 L. Ed. 2d 457 (1993).  
21 As to legislative journals, generally, see § 41.  
22 As to judicial notice of legislative journals, see Am. Jur. 2d, Evidence § 134.  
23 Smith v. Workers' Comp. Appeals Bd., 46 Cal. 4th 272, 92 Cal. Rptr. 3d 894, 206 P.3d 430 (2009).  
24 Graham County Soil and Water Conservation Dist. v. U.S. ex rel. Wilson, 130 S. Ct. 1396, 176 L. Ed. 2d  
225 (2010).  
25 Anthony v. Veatch, 189 Or. 462, 221 P.2d 575 (1950).  
26 EMC Corp. v. Commissioner of Revenue, 433 Mass. 568, 744 N.E.2d 55 (2001).  
27 Adamson v. Blanchard, 133 Idaho 602, 990 P.2d 1213 (1999).  
28 In re Dannenberg, 34 Cal. 4th 1061, 23 Cal. Rptr. 3d 417, 104 P.3d 783 (2005).  
29 Gustafson v. Alloyd Co., Inc., 513 U.S. 561, 115 S. Ct. 1061, 131 L. Ed. 2d 1 (1995).  
30 Bruesewitz v. Wyeth LLC, 131 S. Ct. 1068, 179 L. Ed. 2d 1 (2011).  
31 Barber v. Thomas, 130 S. Ct. 2499, 177 L. Ed. 2d 1 (2010).  
32 Microsoft Corp. v. Franchise Tax Bd., 39 Cal. 4th 750, 47 Cal. Rptr. 3d 216, 139 P.3d 1169 (2006).

## 73 Am. Jur. 2d Statutes § 84

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 84. Changes in statute in the course of enactment; rejected provisions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 217.1 to 217.4

In the interpretation of a statute, arguments sought to be founded upon the various phases assumed by the several provisions of the act in its passage through the legislature have sometimes been regarded as being of no consequence.<sup>1</sup> In some cases, however, amendments of bills or changes made therein during the course of passage in the legislature, as disclosed by the records thereof, have been regarded as properly considered by courts interpreting doubtful or ambiguous provisions of the statute.<sup>2</sup>

In the interpretation of a statute of doubtful import, the fact that a provision originally in a bill is omitted from the act as finally passed by the legislature has been regarded as a significant factor.<sup>3</sup> The rejection by the legislature of a specific provision contained in an act as originally introduced is most persuasive to the conclusion that the act should not be construed to include the omitted provision.<sup>4</sup> As a general rule, when language is removed from a bill before its final passage, courts presume its deletion to have been intentional.<sup>5</sup> Thus, the rejection by the legislature of a specific provision contained in an act as originally reported has been found most persuasive to the conclusion that the act should be so construed as in effect to exclude that provision, at least where there is a basis for the assumption that the words omitted were deemed to be mere surplusage.<sup>6</sup>

The rejection by the legislature of amendments to existing legislation has been found to be a significant circumstance by some courts,<sup>7</sup> while others regard it as a circumstance to be weighed along with other circumstances where the choice is nicely balanced.<sup>8</sup> Other courts have decided that, in construing a statute, rejected alternative legislation may not be considered<sup>9</sup> or, at least, should be given little weight.<sup>10</sup> Failed legislative proposals are a particularly dangerous ground on which to rest an interpretation of a prior statute.<sup>11</sup> Unpassed legislation ordinarily reveals very little regarding legislative intent.<sup>12</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

When the Legislature chooses to omit a provision from the final version of a statute which was included in an earlier version, this is strong evidence that the act as adopted should not be construed to incorporate the original provision. [UFCW & Employers Benefit Trust v. Sutter Health](#), 241 Cal. App. 4th 909, 194 Cal. Rptr. 3d 190 (1st Dist. 2015).

When embraced by a court considering legislative history, the doctrine of amendment rejection theory under which legislature's inaction on a bill impacts the interpretation of existing law, equates inaction on a proposed amendment as a rejection of its alternative interpretation. [Montgomery County v. Complete Lawn Care, Inc.](#), 240 Md. App. 664, 207 A.3d 695 (2019), cert. denied, 2019 WL 3774507 (Md. 2019).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Dennis v. Commissioner of Corporations and Taxation, 340 Mass. 629, 165 N.E.2d 893, 81 A.L.R.2d 1226 (1960).
- 2 Majewski v. Broadalbin-Perth Cent. School Dist., 91 N.Y.2d 577, 673 N.Y.S.2d 966, 696 N.E.2d 978 (1998). Legislative changes can be considered when determining legislative intent. [State v. Gonzalez](#), 168 Wash. 2d 256, 226 P.3d 131 (2010), cert. denied, 131 S. Ct. 318, 178 L. Ed. 2d 207 (2010).
- 3 Russello v. U.S., 464 U.S. 16, 104 S. Ct. 296, 78 L. Ed. 2d 17 (1983).
- 4 People v. Soto, 51 Cal. 4th 229, 119 Cal. Rptr. 3d 775, 245 P.3d 410 (2011), cert. denied, 131 S. Ct. 2941, 180 L. Ed. 2d 233 (2011).
- 5 Rosnov v. Molloy, 460 Mass. 474, 952 N.E.2d 901 (2011).
- 6 Carey v. Donohue, 240 U.S. 430, 36 S. Ct. 386, 60 L. Ed. 726 (1916).
- 7 American Airlines, Inc. v. State Commission for Human Rights, 29 A.D.2d 178, 286 N.Y.S.2d 493, 29 A.L.R.3d 1402 (1st Dep't 1968).
- 8 Fox v. Standard Oil Co. of New Jersey, 294 U.S. 87, 55 S. Ct. 333, 79 L. Ed. 780 (1935).
- 9 Opinion of the Justices, 57 Del. 495, 202 A.2d 276 (1964).
- 10 Carter v. California Dept. of Veterans Affairs, 38 Cal. 4th 914, 44 Cal. Rptr. 3d 223, 135 P.3d 637 (2006).
- 11 Lockhart v. U.S., 546 U.S. 142, 126 S. Ct. 699, 163 L. Ed. 2d 557 (2005).
- 12 Lu v. Hawaiian Gardens Casino, Inc., 50 Cal. 4th 592, 113 Cal. Rptr. 3d 498, 236 P.3d 346 (2010).

## 73 Am. Jur. 2d Statutes § 85

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 85. Legislative debates

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 216, 217.3

Although they are not to be considered controlling,<sup>1</sup> in many decisions, legislative debates have been regarded as properly taken into consideration for some purposes at least.<sup>2</sup> Reference has been made to such debates for the purpose of confirming a construction adopted by the court. Thus, statements in debates have been properly considered as showing the conditions or history of the period when the statute in question was enacted, or the mischief which it was intended to remedy,<sup>3</sup> or the general purpose of the statute,<sup>4</sup> and thus as throwing light upon its proper interpretation.

Even so, the general rule is that the statements and opinions of legislators uttered in a legislature are not appropriate sources of information from which to discover the meaning of the language of a statute passed by such body.<sup>5</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

It is the business of Congress to sum up its own debates in its legislation, and once it enacts a statute, the court does not inquire what the legislature meant; it asks only what the statute means. [Epic Systems Corp. v. Lewis](#), 138 S. Ct. 1612 (2018).

Floor statements by individual legislators rank among the least illuminating forms of legislative history. [N.L.R.B. v. SW General, Inc.](#), 137 S. Ct. 929 (2017).

[END OF SUPPLEMENT]

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Footnotes

1                   [Farrington v. Stoddard, 115 F.2d 96, 131 A.L.R. 1344 \(C.C.A. 1st Cir. 1940\).](#)  
As to judicial notice of statements made on the floor of the legislature, see [Am. Jur. 2d, Evidence § 133](#).

2                   [People v. Collins, 214 Ill. 2d 206, 291 Ill. Dec. 686, 824 N.E.2d 262 \(2005\); Schultz v. Harrison Radiator Div. General Motors Corp., 90 N.Y.2d 311, 660 N.Y.S.2d 685, 683 N.E.2d 307 \(1997\).](#)

3                   [Humphrey's Ex'r v. U.S., 295 U.S. 602, 55 S. Ct. 869, 79 L. Ed. 1611 \(1935\).](#)

4                   [U.S. v. Article of Drug . . . Bacto-Unidisk . . . , 394 U.S. 784, 89 S. Ct. 1410, 22 L. Ed. 2d 726 \(1969\).](#)

5                   [Federal Trade Commission v. Raladam Co., 283 U.S. 643, 51 S. Ct. 587, 75 L. Ed. 1324, 79 A.L.R. 1191 \(1931\).](#)

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## 73 Am. Jur. 2d Statutes § 86

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 86. Committee activities and action

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 217.3

While statements made to legislative committees have been regarded as without weight in the interpretation of a statute,<sup>1</sup> there are some cases in which the courts, in construing a statute, have taken into consideration discussions<sup>2</sup> and hearings before a legislative committee.<sup>3</sup> However, although there is contrary authority,<sup>4</sup> it has been held that the failure of a legislative committee to act can be considered in determining the intent of the legislature.<sup>5</sup> However, rejection of an entire bill by a conference committee of the Senate and House of Representatives cannot, in construing the act of Congress drafted by the committee, be taken to be a specific rejection of each and every feature,<sup>6</sup> and the interpretation of statutes cannot safely be made to rest upon committee changes, made without explanation, in a pending bill.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Excerpts from committee hearings are among the least illuminating forms of legislative history, for purposes of statutory interpretation. [Food Marketing Institute v. Argus Leader Media](#), 139 S. Ct. 2356 (2019).

Excerpts from committee hearings and scattered floor statements by individual lawmakers are the sort of stuff that are among the least illuminating forms of legislative history. [Advocate Health Care Network v. Stapleton](#), 137 S. Ct. 1652 (2017).

[END OF SUPPLEMENT]

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Footnotes

1                   [McCaughn v. Hershey Chocolate Co., 283 U.S. 488, 51 S. Ct. 510, 75 L. Ed. 1183 \(1931\)](#).  
In determining legislative intent, the court does not look to the record of the internal deliberations of committees of the legislature considering the proposed legislation. [North Carolina Dept. of Correction v. North Carolina Medical Bd.](#), 363 N.C. 189, 675 S.E.2d 641 (2009).

2                   [Pellett v. Industrial Commission of Wisconsin](#), 162 Wis. 596, 156 N.W. 956 (1916).

3                   [Dawson Chemical Co. v. Rohm and Haas Co.](#), 448 U.S. 176, 100 S. Ct. 2601, 65 L. Ed. 2d 696 (1980); [Burke v. Fleet National Bank](#), 252 Conn. 1, 742 A.2d 293 (1999).

4                   [Ophaug v. Hildre](#), 77 N.D. 221, 42 N.W.2d 438 (1950).

5                   [U. S. ex rel. Chapman v. Federal Power Commission](#), 345 U.S. 153, 73 S. Ct. 609, 97 L. Ed. 918 (1953).

6                   [Gemsco, Inc., v. Walling](#), 324 U.S. 244, 65 S. Ct. 605, 89 L. Ed. 921 (1945).

7                   [Trailmobile Co. v. Whirls](#), 331 U.S. 40, 67 S. Ct. 982, 91 L. Ed. 1328 (1947).

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## 73 Am. Jur. 2d Statutes § 87

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 87. Committee reports

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 217.3

Reference is frequently made to opinions expressed in reports of committees for the purpose of confirming the construction of a statute adopted by the court.<sup>1</sup> In this regard, even in determining the proper construction of a statute, committee reports may be considered<sup>2</sup> where the language of the statute is ambiguous and doubt as to its proper meaning exists.<sup>3</sup> Reports of commissions which have proposed statutes that are subsequently adopted are entitled to substantial weight in construing the statutes, particularly where the statute proposed by the commission is adopted by the legislature without any change whatsoever and where the commission's comment is brief because in such a situation, there is ordinarily strong reason to believe that the legislators' votes were based in large measure upon the explanation of the commission proposing the bill.<sup>4</sup> This rule has been applied to a supplemental report of a committee in charge of a bill,<sup>5</sup> and even to a committee statement made after the enactment of the bill,<sup>6</sup> as well as to conference reports.<sup>7</sup> Although enrolled bill reports do not take precedence over more direct windows into legislative intent such as committee analyses, and cannot be used to alter the substance of legislation, they may be instructive in filling out the picture of the legislature's purpose.<sup>8</sup>

However, in the construction of a statute, the courts are not constrained by committee reports which cannot control,<sup>9</sup> or even be considered,<sup>10</sup> where the construction of the statute according to its terms does not lead to absurd or impracticable consequences;<sup>11</sup> or where, taking the statute as a whole, the effect of the language used is clear to the court;<sup>12</sup> or where the statute is unambiguous.<sup>13</sup>

Reports of legislative committees may not be considered for the purpose of creating an ambiguity for the purpose of construing a statute contrary to its plain terms.<sup>14</sup>

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Footnotes

- 1 C.I.R. v. Bilder, 369 U.S. 499, 82 S. Ct. 881, 8 L. Ed. 2d 65 (1962).  
As to judicial notice of reports made to legislative bodies, generally, see Am. Jur. 2d, Evidence § 133.
- 2 Thornburg v. Gingles, 478 U.S. 30, 106 S. Ct. 2752, 92 L. Ed. 2d 25, 4 Fed. R. Serv. 3d 1082 (1986); Burns v. Belafsky, 166 N.J. 466, 766 A.2d 1095 (2001).
- 3 Wright v. Vinton Branch of Mountain Trust Bank of Roanoke, Va., 300 U.S. 440, 57 S. Ct. 556, 81 L. Ed. 736, 112 A.L.R. 1455 (1937).
- 4 Jevne v. Superior Court, 35 Cal. 4th 935, 28 Cal. Rptr. 3d 685, 111 P.3d 954 (2005).
- 5 U.S. v. St. Paul, M. & M. Ry. Co., 247 U.S. 310, 38 S. Ct. 525, 62 L. Ed. 1130 (1918).
- 6 Sioux Tribe of Indians v. U.S., 316 U.S. 317, 62 S. Ct. 1095, 86 L. Ed. 1501 (1942).
- 7 Helvering v. Twin Bell Oil Syndicate, 293 U.S. 312, 55 S. Ct. 174, 79 L. Ed. 383 (1934).
- 8 In re Conservatorship of Whitley, 50 Cal. 4th 1206, 117 Cal. Rptr. 3d 342, 241 P.3d 840 (2010).
- 9 Pierce v. Underwood, 487 U.S. 552, 108 S. Ct. 2541, 101 L. Ed. 2d 490 (1988).
- 10 Helvering v. City Bank Farmers Trust Co., 296 U.S. 85, 56 S. Ct. 70, 80 L. Ed. 62 (1935).
- 11 U.S. v. Missouri Pac. R. Co., 278 U.S. 269, 49 S. Ct. 133, 73 L. Ed. 322 (1929).
- 12 Railroad Commission of Wisconsin v. Chicago, B. & Q. R. Co., 257 U.S. 563, 42 S. Ct. 232, 66 L. Ed. 371, 22 A.L.R. 1086 (1922).
- 13 Helvering v. City Bank Farmers Trust Co., 296 U.S. 85, 56 S. Ct. 70, 80 L. Ed. 62 (1935).
- 14 U.S. v. Shreveport Grain & Elevator Co., 287 U.S. 77, 53 S. Ct. 42, 77 L. Ed. 175 (1932).

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## 73 Am. Jur. 2d Statutes § 88

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 88. Statements of authors or sponsors of bill

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 216

The doctrine which prohibits the courts, in construing a statute, to resort to opinions of individual members of the legislature in debate when the bill was pending before it<sup>1</sup> has sometimes,<sup>2</sup> but not always,<sup>3</sup> been applied so as to exclude explanatory statements by the author of the bill. Statements by the author of a bill have been properly considered as showing the conditions or history of the period when the statute in question was enacted, or the mischief which it was intended to remedy, and thus as throwing light on its proper interpretation.<sup>4</sup> However, views of a single legislator, even a bill's sponsor, are not controlling on the meaning of legislation.<sup>5</sup> In interpreting a statute, courts do not consider statements of a bill's author or any other legislator unless they reiterate legislative discussion and events leading up to the bill's passage.<sup>6</sup> Statements of the author of the act, in advocating its adoption, cannot control the construction of the statute.<sup>7</sup> In construing a statute, the court does not consider the motives or understandings of individual legislators who cast their votes in favor of it, even those of the legislator who authored the bill in controversy; no guarantee can issue that those who supported his proposal shared his or her view of its compass.<sup>8</sup> The motive or purpose of the drafters of a statute is not relevant to its construction, absent reason to conclude that the body which adopted the statute was aware of that purpose and believed the language of the proposal would accomplish it.<sup>9</sup>

Letters written by individual legislators many years after enactment of legislation that they had sponsored, regarding the meaning of the legislation, does not qualify as legislative "history" and is of scant or no value in construing it.<sup>10</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

In construing a statute, legislative committee reports, bill reports, and other legislative records including testimony or argument to either a house of the Legislature or one of its committees are appropriate sources from which legislative intent may be ascertained, but material showing the motive or understanding of an individual legislator, including the bill's author, his or her staff, or other interested persons, is generally not considered. *Mt. Hawley Insurance Company v. Lopez*, 215 Cal. App. 4th 1385, 156 Cal. Rptr. 3d 771 (2d Dist. 2013).

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### Footnotes

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## 73 Am. Jur. 2d Statutes § 89

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 89. Subsequent legislative action

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 220

The interpretation of a statute by the legislative department of the government may go far to remove doubt as to its meaning.<sup>1</sup> This fact is recognized by the courts, which regard it as proper to take into consideration, in determining the meaning of a statute, subsequent action of the legislature<sup>2</sup> or the interpretation which the legislature subsequently places upon the statute.<sup>3</sup> There are no principles of construction which prevent the utilization by the courts of subsequent enactments or amendments as an aid in arriving at the correct meaning of a prior statute.<sup>4</sup> In fact, it has been said that a later act can be regarded as a legislative interpretation of an earlier act in the sense that it aids in ascertaining the meaning of the words as used in their contemporary setting and is therefore entitled to great weight in resolving ambiguities and doubts.<sup>5</sup> Sometimes, it may be appropriate to consider a subsequent amendment to clarify original legislative intent of a statute if such amendment was enacted soon after a controversy regarding the statute's interpretation arose.<sup>6</sup> Amendments that construe or clarify a prior statute must be accepted as the legislative declaration of the meaning of the original act.<sup>7</sup> However, it has also been said that the view of a later Congress cannot control the interpretation of an earlier enacted statute<sup>8</sup> and that the views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one.<sup>9</sup> The declaration of a later legislature is of little weight in determining the relevant intent of the legislature that enacted the law.<sup>10</sup>

Even so, generally, a legislative body may by statute declare the construction of previous statutes so as to bind the courts in reference to all transactions occurring after the passage of the new law.<sup>11</sup> Indeed, in some cases where no constitutional rights of the party concerned are violated, the legislature may by subsequent legislation furnish the rule to govern the courts even as to transactions which are past.<sup>12</sup> However, where intervening rights have arisen, the mandatory operation of the explanatory

act is generally regarded as prospective only.<sup>13</sup> The legislature may not, under cover of giving a construction to an existing or an expired statute, invade private rights with which it could not interfere by a new and affirmative statute.<sup>14</sup>

Where the legislative body has expressly legislated in respect to a given matter, that express legislation must control in the absence of subsequent legislation equally express; it is not overthrown by any mere inferences or implications to be found in such subsequent legislation.<sup>15</sup> Furthermore, the contemporaneous intent of Congress in regard to the meaning of a statute is not supplanted by anything to the contrary in subsequent events, such as bills passed by Congress which were vetoed by the President and their legislative history.<sup>16</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Though post-enactment legislative history is disfavored when interpreting a statute, it can provide confirmation of past or current legislative preferences. *Girdwood Min. Co. v. Comsult LLC*, 329 P.3d 194 (Alaska 2014).

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### Footnotes

- 1 First Nat. Bank in St. Louis v. State of Missouri at inf. Barrett, 263 U.S. 640, 44 S. Ct. 213, 68 L. Ed. 486 (1924).
- 2 Loving v. U.S., 517 U.S. 748, 116 S. Ct. 1737, 135 L. Ed. 2d 36 (1996); Oldham v. Kizer, 235 Cal. App. 3d 1046, 1 Cal. Rptr. 2d 195 (2d Dist. 1991).
- 3 Flewelling v. Board of Trustees of American River Jr. College Dist., Sacramento County, 178 Cal. App. 2d 168, 2 Cal. Rptr. 891 (3d Dist. 1960).
- 4 Great Northern R. Co. v. U.S., 315 U.S. 262, 62 S. Ct. 529, 86 L. Ed. 836 (1942).
- 5 Erlenbaugh v. U. S., 409 U.S. 239, 93 S. Ct. 477, 34 L. Ed. 2d 446 (1972).
- 6 Subsequent legislation declaring the intent of an earlier statute is entitled to great weight in statutory construction. *Loving v. U.S.*, 517 U.S. 748, 116 S. Ct. 1737, 135 L. Ed. 2d 36 (1996).
- 7 McKenzie Check Advance of Florida, LLC v. Betts, 928 So. 2d 1204 (Fla. 2006).
- 8 Brennan v. Kansas Ins. Guar. Ass'n, 293 Kan. 446, 264 P.3d 102 (2011).
- 9 O'Gilvie v. U.S., 519 U.S. 79, 117 S. Ct. 452, 136 L. Ed. 2d 454 (1996).
- 10 U.S. v. Price, 361 U.S. 304, 80 S. Ct. 326, 4 L. Ed. 2d 334 (1960).
- 11 Jones v. Lodge at Torrey Pines Partnership, 42 Cal. 4th 1158, 72 Cal. Rptr. 3d 624, 177 P.3d 232 (2008).
- 12 State Tax Commission v. Overstreet Inv. Co., 194 So. 2d 236 (Miss. 1967).
- 13 As to the prospective or retrospective operation of laws, generally, see §§ 235 to 241.
- 14 State Tax Commission v. Overstreet Inv. Co., 194 So. 2d 236 (Miss. 1967).
- 15 Lemen v. Kansas Flour Mills Co., 122 Kan. 114, 251 P. 427 (1926).
- 16 Bankers' Trust Co. of Detroit v. Russell, 263 Mich. 677, 249 N.W. 27 (1933).
- 17 As to the rule that retroactive declaratory statutes will not be allowed to affect vested rights, see *Am. Jur. 2d, Constitutional Law* § 749.
- 18 Lichty v. Lichty Const. Co., 69 Wyo. 411, 243 P.2d 151 (1952).
- 19 Waterman S.S. Corp. v. U.S., 381 U.S. 252, 85 S. Ct. 1389, 14 L. Ed. 2d 370 (1965).

## 73 Am. Jur. 2d Statutes § 90

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 3. Construction and Proceedings by Other Courts or Persons

###### b. Action or Inaction of Legislators; Legislative History

## § 90. Contemporaneous legislative interpretation; resolutions as to proper construction of statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 218, 220

Under the general rule that a legislative resolution does not have force or effect as a law,<sup>1</sup> a legislative resolution as to the proper construction of a statute is not binding on the courts although it is entitled to the most respectful consideration.<sup>2</sup> If the courts have not yet finally and conclusively interpreted a statute and are in the process of doing so, a declaration of a later legislature as to what an earlier legislature intended is entitled to consideration; but even then, a legislative declaration of an existing statute's meaning is but a factor for a court to consider and is neither binding nor conclusive in construing the statute.<sup>3</sup> Similarly, although legislative findings and declarations in a statute as to the necessity thereof do not make valid that which is invalid, and are subject to judicial review, they are entitled to weight in the judicial determination of the statute's meaning and constitutionality.<sup>4</sup> There is no better source of legislative intent for an act than a legislative expression of the act's purpose.<sup>5</sup> The Supreme Court of the United States is not justified in rejecting the legislative interpretation placed upon a statute at the time of its enactment where no agency entrusted with administration of the statute has adopted a construction in disregard of its legislative history.<sup>6</sup>

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### Footnotes

<sup>1</sup> [§ 2.](#)

<sup>2</sup> [Brand v. Common Council of City of Detroit](#), 271 Mich. 221, 261 N.W. 52 (1935).

<sup>3</sup> [Carter v. California Dept. of Veterans Affairs](#), 38 Cal. 4th 914, 44 Cal. Rptr. 3d 223, 135 P.3d 637 (2006).

4                   Velishka v. City of Nashua, 99 N.H. 161, 106 A.2d 571, 44 A.L.R.2d 1406 (1954).  
5                   Rodriguez v. State, 284 Ga. 803, 671 S.E.2d 497 (2009).  
6                   Algoma Plywood & Veneer Co. v. Wisconsin Employment Relations Bd., 336 U.S. 301, 69 S. Ct. 584, 93  
L. Ed. 691 (1949).

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## 73 Am. Jur. 2d Statutes § 91

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 4. Other Laws or Statutory Provisions

###### a. In General

## § 91. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.1, 223.2(.5)

In ascertaining the legislative intent in the enactment of a statute, the state of the law prior to its adoption is given consideration.<sup>1</sup> Thus, in the interpretation of a statute, it is proper to look to the origin of the act or of the section being construed, or to the sources from which it was derived.<sup>2</sup> It is also a general rule of interpretation to assume that the legislature in the enactment of a statute was aware of established rules of law applicable to the subject matter of the statute.<sup>3</sup> Upon enactment, the statute becomes a part of<sup>4</sup> and is to be read in connection with, the whole body of the law.<sup>5</sup> Interpretation of a word or phrase in a statute requires consulting any precedents or authorities that inform the analysis.<sup>6</sup> On the other hand, where a statute is plain and unambiguous, it is to be construed in conformity to its obvious meaning without regard to the previous state of the law.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

A court construing a statute first attempts to construe the subject term or language in accordance with the plain meaning of its express language, in the context of the statute as a whole, and in furtherance of the manifest purpose of the statutory provision and the larger statutory scheme in which it is included. [Mont. Code Ann. § 1-2-106. Clark Fork Coalition v. Montana Department of Natural Resources and Conservation, 2021 MT 44, 481 P.3d 198 \(Mont. 2021\).](#)

**[END OF SUPPLEMENT]**

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Footnotes

- 1                   [Edwards v. Department of Children & Youth Services](#), 271 Ga. 890, 525 S.E.2d 83 (2000).
- 2                   [Nampa Lodge No. 1389, Benev. and P. O. of E. of U. S. v. Smylie](#), 71 Idaho 212, 229 P.2d 991 (1951).
- 3                   [Sullivan v. Ward](#), 304 Mass. 614, 24 N.E.2d 672, 130 A.L.R. 437 (1939).
- 4                   [General Petroleum Corp. of Cal. v. Smith](#), 62 Ariz. 239, 157 P.2d 356, 158 A.L.R. 364 (1945).
- 5                   [Thornton v. Anderson](#), 207 Ga. 714, 64 S.E.2d 186, 24 A.L.R.2d 1079 (1951).
- 6                   [Kasten v. Saint-Gobain Performance Plastics Corp.](#), 131 S. Ct. 1325, 179 L. Ed. 2d 379 (2011); [Alli v. Decker](#), 650 F.3d 1007 (3d Cir. 2011).
- 7                   [Northridge v. Grenier](#), 278 Mass. 438, 180 N.E. 226, 81 A.L.R. 394 (1932).

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## 73 Am. Jur. 2d Statutes § 92

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 4. Other Laws or Statutory Provisions

###### b. Common Law

## § 92. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 222

Congress is understood to legislate against a background of common-law principles, and when a statute covers an issue previously governed by the common law, courts interpret the statute with the presumption that Congress intended to retain the substance of the common law.<sup>1</sup> When the legislature enacts a statute, it is presumed that the legislature was familiar with the common law requirements.<sup>2</sup> Where Congress uses a common-law term in a statute, the Supreme Court assumes that the term comes with a common law meaning, absent anything pointing another way.<sup>3</sup> It will be presumed that in enacting a statute, the legislature was familiar with the relevant rules of the common law and, when it couches its enactments in common law language, that its intent was to continue those rules in statutory form.<sup>4</sup> As a general rule, unless expressly provided, statutes should not be interpreted to alter the common law and should be construed to avoid conflict with common law rules.<sup>5</sup> Congressional silence often reflects the expectation that courts will look to the common law to fill gaps in statutory text, particularly when an undefined term has a settled meaning at common law.<sup>6</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The ancient and simple but for common law causation test supplies the default or background rule against which Congress is normally presumed to have legislated when creating its own new causes of action; that includes when it comes to federal

antidiscrimination laws like § 1981. [42 U.S.C.A. § 1981. Comcast Corporation v. National Association of African American-Owned Media, 140 S. Ct. 1009 \(2020\)](#).

When interpreting a statute, courts generally presume that Congress legislates against the backdrop of the common law. [Comcast Corporation v. National Association of African American-Owned Media, 140 S. Ct. 1009 \(2020\)](#).

Statutes which invade the common law are to be read with a presumption favoring the retention of long-established and familiar legal principles. [Baker Botts L.L.P. v. ASARCO LLC, 135 S. Ct. 2158 \(2015\)](#).

When a statute covers an issue previously governed by the common law, courts must presume that Congress intended to retain the substance of the common law. [Kirtsaeng v. John Wiley & Sons, Inc., 133 S. Ct. 1351 \(2013\)](#).

A subsequent change in the common law does not impact the court's statutory analysis. [Broughton Lumber Co. v. BNSF Ry. Co., 278 P.3d 173 \(Wash. 2012\)](#).

A subsequent change in the common law does not impact the court's statutory analysis. [Jongeward v. BNSF R. Co., 278 P.3d 157 \(Wash. 2012\)](#).

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### Footnotes

- 1 Samantar v. Yousuf, 130 S. Ct. 2278, 176 L. Ed. 2d 1047 (2010).
- 2 Vancura v. Katris, 238 Ill. 2d 352, 345 Ill. Dec. 485, 939 N.E.2d 328 (2010).
- 3 Microsoft Corp. v. i4i Ltd. Partnership, 131 S. Ct. 2238, 180 L. Ed. 2d 131 (2011).
- 4 People v. Sarun Chun, 45 Cal. 4th 1172, 91 Cal. Rptr. 3d 106, 203 P.3d 425 (2009).
- 5 Dillingham-Ray Wilson v. City of Los Angeles, 182 Cal. App. 4th 1396, 106 Cal. Rptr. 3d 691 (2d Dist. 2010), as modified on denial of reh'g, (Apr. 16, 2010) and review denied, (June 30, 2010).
- 6 Clackamas Gastroenterology Associates, P. C. v. Wells, 538 U.S. 440, 123 S. Ct. 1673, 155 L. Ed. 2d 615 (2003).

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## 73 Am. Jur. 2d Statutes § 93

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 4. Other Laws or Statutory Provisions

###### b. Common Law

## § 93. Interpretation of statute as changing or abrogating common law

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 222, 239

It is presumed that a change in statutory law does not abrogate pre-existing case law.<sup>1</sup> A law abrogates the common law when the provisions of a statute are so inconsistent with and repugnant to the prior common law that both cannot simultaneously be in force.<sup>2</sup> In this regard, where a statute is clearly designed as a substitute for the common law, such purpose should be given effect.<sup>3</sup> However, the common law ought not to be deemed repealed unless the language of a statute is clear and explicit for this purpose.<sup>4</sup>

There is a presumption that a statute does not, by implication, repeal the common law.<sup>5</sup> Statutes that invade the common law are to be read with a presumption favoring retention of long-established and familiar principles except where a contrary statutory purpose is evident.<sup>6</sup> Courts do not presume that the legislature intends, when it enacts a statute, to overthrow long-established principles of law unless such intention is clearly expressed or necessarily implied.<sup>7</sup> A statute designed to change the common law rule must speak in clear, unequivocal terms, for the presumption is that no change in the common law is intended unless the statute is explicit in this regard.<sup>8</sup> A statute will be construed as changing the common law only to the extent that the terms thereof warrant or as necessarily implied from what is expressed.<sup>9</sup> However, legislative displacement of federal common law does not require the same sort of evidence of a clear and manifest congressional purpose demanded for preemption of state law; the test for whether congressional legislation excludes declaration of federal common law is simply whether the statute speaks directly to question at issue.<sup>10</sup>

Footnotes

1      Russell v. Gaither, 181 Md. App. 25, 952 A.2d 1013 (2008).

2      Potter v. Washington State Patrol, 165 Wash. 2d 67, 196 P.3d 691 (2008).

3      As to the strict construction of statutes in derogation of common law, see § 181.

4      Burnett v. Myers, 42 S.D. 233, 173 N.W. 730 (1919).

5      Norfolk Redevelopment and Housing Authority v. Chesapeake and Potomac Telephone Co. of Virginia, 464 U.S. 30, 104 S. Ct. 304, 78 L. Ed. 2d 29 (1983).

6      City Of Laguna Beach v. California Ins. Guarantee Ass'n, 182 Cal. App. 4th 711, 106 Cal. Rptr. 3d 552 (2d Dist. 2010).

7      Pasquantino v. U.S., 544 U.S. 349, 125 S. Ct. 1766, 161 L. Ed. 2d 619, 4 A.L.R. Fed. 2d 747 (2005).

8      Van Horn v. Watson, 45 Cal. 4th 322, 86 Cal. Rptr. 3d 350, 197 P.3d 164 (2008), clarified, by West's Ann.Cal.Health & Safety Code § 1799.102 (Jan. 1, 2009).

9      Essex Ins. Co. v. Zota, 985 So. 2d 1036 (Fla. 2008).

10     Vanceura v. Katris, 238 Ill. 2d 352, 345 Ill. Dec. 485, 939 N.E.2d 328 (2010).

10     American Elec. Power Co., Inc. v. Connecticut, 131 S. Ct. 2527, 180 L. Ed. 2d 435 (2011).

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## 73 Am. Jur. 2d Statutes § 94

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### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 4. Other Laws or Statutory Provisions

###### c. Statutes

## § 94. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.1, 223.2(.5), 223.2(35), 223.3, 223.4, 223.5(.5) to 223.5(9), 226

When discerning legislative intent, it is proper to compare statutes relating to the same subject matter as well as statutes upon related subjects though not strictly in pari materia because statutes are to be read in the light of attendant conditions and the state of the law existent at the time of their enactment.<sup>1</sup> In construing a statute, related statutes are relevant in considering the meaning of the statute at issue.<sup>2</sup> Courts, when dealing with matters of statutory interpretation, must harmonize the various provisions of related statutes and construe them in a way that renders them internally compatible.<sup>3</sup> In other cases, it is declared that a statute separate and apart from, and not in pari materia with, other acts is to be construed in its own light, and it may not be urged that one of them is limited by the other.<sup>4</sup> When conducting statutory interpretation, the Supreme Court must be careful not to apply rules applicable under one statute to a different statute without careful and critical examination.<sup>5</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

When Congress wants to link the meaning of a statutory provision to a body of the Supreme Court's case law, it knows how to do so. [Burwell v. Hobby Lobby Stores, Inc.](#), 134 S. Ct. 2751 (2014).

A statute's severability is determined under state law. [Arce v. Douglas](#), 793 F.3d 968 (9th Cir. 2015).

Where a statute contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show different legislative intent. [In re D.S., 207 Cal. App. 4th 1088, 143 Cal. Rptr. 3d 918 \(4th Dist. 2012\)](#).

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Footnotes

- 1 JPMorgan Chase Bank, N.A. v. Earth Foods, Inc., 238 Ill. 2d 455, 345 Ill. Dec. 644, 939 N.E.2d 487 (2010).
- 2 St. Louis Police Officers' Ass'n v. Board of Police Com'rs of City of St. Louis, 259 S.W.3d 526 (Mo. 2008).
- 3 Yatauro v. Mangano, 17 N.Y.3d 420, 931 N.Y.S.2d 36, 955 N.E.2d 343 (2011).
- 4 Skelton v. Davis, 133 So. 2d 432, 89 A.L.R.2d 1114 (Fla. Dist. Ct. App. 3d Dist. 1961).
- 5 Gross v. FBL Financial Services, Inc., 557 U.S. 167, 129 S. Ct. 2343, 174 L. Ed. 2d 119 (2009).

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## 73 Am. Jur. 2d Statutes § 95

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 4. Other Laws or Statutory Provisions

###### c. Statutes

## § 95. Provisions in pari materia

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.2(1.1) to 223.2(34)

A court's construction of a statute must, to the extent possible, ensure that the statutory scheme is coherent and consistent.<sup>1</sup> Two statutes, or two parts of one statute, concerning the same subject must be considered together in order to produce a harmonious whole.<sup>2</sup> The court will interpret a statute's provisions in harmony with other statutes under the same and related chapters<sup>3</sup> and construes the meaning of a statute by reading it in its entirety and considering the entire sequence of all statutes relating to the same subject matter.<sup>4</sup> A court interprets statutory language in relation to the language of surrounding or closely related statutes.<sup>5</sup> The words of a statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible.<sup>6</sup>

It is a basic canon of statutory construction that statutes in pari materia should be construed together so that all parts of the statutory scheme are given effect.<sup>7</sup> Two statutes are considered to be in pari materia when they relate to the same person or thing, to the same class of persons or things, or have the same purpose or object.<sup>8</sup> Statutes which relate to the same persons or things must be construed together as one statute.<sup>9</sup> Statutes that are in pari materia must be read together as one law even if they contain no reference to one another.<sup>10</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

When two statutes complement each other, it would show disregard for the congressional design to hold that Congress nonetheless intended one federal statute to preclude the operation of the other. [POM Wonderful LLC v. Coca-Cola Co.](#), 134 S. Ct. 2228 (2014).

Statutes in pari materia are to be taken together in ascertaining the intention of the legislature, and courts will regard all statutes upon the same general subject-matter as part of one system. [Poe v. Snyder](#), 834 F. Supp. 2d 721 (W.D. Mich. 2011).

When construing a statute, the words of the statute must be considered in context and sections of the statutes in pari materia, as well as cognate sections, must be considered in order to arrive at the true meaning and scope of the words. [Harpagon MO, LLC v. Bosch](#), 370 S.W.3d 579 (Mo. 2012).

A collection of statutes pertaining to a single subject matter are in pari materia and should be conjunctively considered and construed to determine the intent of the Legislature, so that different provisions are consistent, harmonious, and sensible. [In re Estate of Adelung](#), 306 Neb. 646, 947 N.W.2d 269 (2020).

If possible, Supreme Court will construe statutes on the same subject to harmonize them and to give full force and effect to the legislature's intent. [Schulke v. Panos](#), 2020 ND 53, 940 N.W.2d 303 (N.D. 2020).

A court should construe multiple statutes covering the same subject matter in such a way as to give effect to all of the statutes if possible. [Citibank, N.A. v. South Dakota Dept. of Revenue](#), 2015 SD 67, 868 N.W.2d 381 (S.D. 2015).

The in pari materia rule of statutory construction, requiring statutes which relate to the same subject matter to be read and applied together, applies only when a statute is ambiguous. [State ex rel. Morrissey v. West Virginia Office of Disciplinary Counsel](#), 234 W. Va. 238, 764 S.E.2d 769 (2014).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Ali v. Federal Bureau of Prisons](#), 552 U.S. 214, 128 S. Ct. 831, 169 L. Ed. 2d 680 (2008).
- 2 [People v. Rinehart](#), 2012 IL 111719, 356 Ill. Dec. 759, 962 N.E.2d 444 (Ill. 2012).
- 3 [T-Mobile USA, Inc. v. Utah State Tax Com'n](#), 2011 UT 28, 254 P.3d 752 (Utah 2011).
- 4 [Federal Way School Dist. No. 210 v. Vinson](#), 172 Wash. 2d 756, 261 P.3d 145, 271 Ed. Law Rep. 1131 (2011).
- 5 [State v. Lamar](#), 2011 WI 50, 334 Wis. 2d 536, 799 N.W.2d 758 (2011).
- 6 [Baker v. Workers' Comp. Appeals Bd.](#), 52 Cal. 4th 434, 129 Cal. Rptr. 3d 133, 257 P.3d 738 (2011), as modified, (Oct. 19, 2011).
- 7 [Lexin v. Superior Court](#), 47 Cal. 4th 1050, 103 Cal. Rptr. 3d 767, 222 P.3d 214 (2010), as modified, (Apr. 22, 2010); [Attorney General v. New Mexico Public Regulation Com'n](#), 2011-NMSC-034, 150 N.M. 174, 258 P.3d 453 (2011); [Cheap Escape Co., Inc. v. Haddox, LLC](#), 120 Ohio St. 3d 493, 2008-Ohio-6323, 900 N.E.2d 601 (2008).
- 8 [Lexin v. Superior Court](#), 47 Cal. 4th 1050, 103 Cal. Rptr. 3d 767, 222 P.3d 214 (2010), as modified, (Apr. 22, 2010); [Community Antenna Service, Inc. v. Charter Communications VI, LLC](#), 227 W. Va. 595, 712 S.E.2d 504 (2011).
- 9 [Board of Revision of Taxes, City of Philadelphia v. City of Philadelphia](#), 607 Pa. 104, 4 A.3d 610 (2010).
- 10 [Michigan Elec. Co-op. Ass'n v. Michigan Public Service Com'n](#), 267 Mich. App. 608, 705 N.W.2d 709 (2005).

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## 73 Am. Jur. 2d Statutes § 96

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 4. Other Laws or Statutory Provisions

###### c. Statutes

## § 96. Parts of same statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 205, 223.2(1.1)

The different parts of a statute reflect light upon each other,<sup>1</sup> and statutory provisions are regarded as *in pari materia*<sup>2</sup> where they are parts of the same act.<sup>3</sup> Courts do not construe statutory phrases in isolation.<sup>4</sup> The court must give effect to the entire act and not just its isolated portions.<sup>5</sup> Hence, a statute should be construed in its entirety<sup>6</sup> and as a whole.<sup>7</sup> A statute is passed as a whole and not in parts or sections and is animated by one general purpose and intent.<sup>8</sup> All parts of the act should be considered,<sup>9</sup> and construed together,<sup>10</sup> so as to produce a harmonious whole.<sup>11</sup> In construing a statute, courts harmonize the various parts of the enactment by considering them in the context of the statutory framework as a whole.<sup>12</sup> When interpreting a statute, the United States Supreme Court construes language in light of the terms surrounding it.<sup>13</sup> Words and phrases used in an act should be read in context with the entire act and assigned such meanings as to harmonize with the act as a whole.<sup>14</sup> Terms ordinarily possess a consistent meaning throughout a statute.<sup>15</sup> Where Congress includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.<sup>16</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

If possible, the court must interpret a statute to give effect to all provisions. [Husted v. A. Philip Randolph Institute](#), 138 S. Ct. 1833 (2018).

Interpretation of a phrase of uncertain reach in a statute is not confined to a single sentence when the text of the whole statute gives instruction as to its meaning. [Star Athletica, L.L.C. v. Varsity Brands, Inc.](#), 137 S. Ct. 1002 (2017).

Whenever possible, the court should favor an interpretation that gives meaning to each statutory provision. [Life Technologies Corp. v. Promega Corp.](#), 137 S. Ct. 734 (2017).

The court's duty is to construe statutes, not isolated provisions. [King v. Burwell](#), 135 S. Ct. 2480 (2015).

It is necessary and required that an interpretation of a phrase of uncertain reach is not confined to a single sentence when the text of the whole statute gives instruction as to its meaning. [Maracich v. Spears](#), 133 S. Ct. 2191 (2013).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [White v. U.S.](#), 305 U.S. 281, 59 S. Ct. 179, 83 L. Ed. 172 (1938).
- 2 As to provisions in pari materia, generally, see [§ 95](#).
- 3 [State v. McDaniel](#), 292 Kan. 443, 254 P.3d 534 (2011); [Morris v. Palouse River and Coulee City R.R., Inc.](#), 149 Wash. App. 366, 203 P.3d 1069 (Div. 3 2009).
- 4 [Samantar v. Yousuf](#), 130 S. Ct. 2278, 176 L. Ed. 2d 1047 (2010); [Los Angeles County Metropolitan Transp. Authority v. Alameda Produce Market, LLC](#), 52 Cal. 4th 1100, 133 Cal. Rptr. 3d 738, 264 P.3d 579 (2011); [People v. Villa](#), 2011 IL 110777, 355 Ill. Dec. 220, 959 N.E.2d 634 (Ill. 2011).
- 5 [Texas Natural Resource Conservation Com'n v. Lakeshore Utility Co., Inc.](#), 164 S.W.3d 368 (Tex. 2005).
- 6 [People v. Revell](#), 372 Ill. App. 3d 981, 311 Ill. Dec. 318, 868 N.E.2d 318 (4th Dist. 2007); [State v. Cooper](#), 50 So. 3d 115 (La. 2010); [Nini v. Mercer County Community College](#), 202 N.J. 98, 995 A.2d 1094, 257 Ed. Law Rep. 725 (2010).
- 7 [Samantar v. Yousuf](#), 130 S. Ct. 2278, 176 L. Ed. 2d 1047 (2010); [U.S. v. Atlantic Research Corp.](#), 551 U.S. 128, 127 S. Ct. 2331, 168 L. Ed. 2d 28, 22 A.L.R. Fed. 2d 735 (2007); [People v. Gutman](#), 2011 IL 110338, 355 Ill. Dec. 207, 959 N.E.2d 621 (Ill. 2011).
- 8 [People v. Medina](#), 41 Cal. 4th 685, 61 Cal. Rptr. 3d 677, 161 P.3d 187 (2007).
- 9 [Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach](#), 523 U.S. 26, 118 S. Ct. 956, 140 L. Ed. 2d 62 (1998); [People v. Medina](#), 41 Cal. 4th 685, 61 Cal. Rptr. 3d 677, 161 P.3d 187 (2007); [State v. McDaniel](#), 292 Kan. 443, 254 P.3d 534 (2011).
- 10 [State v. McDaniel](#), 292 Kan. 443, 254 P.3d 534 (2011); [Nini v. Mercer County Community College](#), 202 N.J. 98, 995 A.2d 1094, 257 Ed. Law Rep. 725 (2010).
- 11 [People v. Medina](#), 41 Cal. 4th 685, 61 Cal. Rptr. 3d 677, 161 P.3d 187 (2007); [Nini v. Mercer County Community College](#), 202 N.J. 98, 995 A.2d 1094, 257 Ed. Law Rep. 725 (2010).
- 12 [In re C.H.](#), 53 Cal. 4th 94, 133 Cal. Rptr. 3d 573, 264 P.3d 357 (2011); [Bender v. Bender](#), 292 Conn. 696, 975 A.2d 636 (2009).
- 13 [FCC v. AT & T Inc.](#), 131 S. Ct. 1177, 179 L. Ed. 2d 132 (2011).
- 14 [People v. Couzens](#), 480 Mich. 240, 747 N.W.2d 849 (2008).
- 15 [People v. Standish](#), 38 Cal. 4th 858, 43 Cal. Rptr. 3d 785, 135 P.3d 32 (2006), as modified, (Aug. 23, 2006).
- 16 [Kucana v. Holder](#), 130 S. Ct. 827, 175 L. Ed. 2d 694, 53 A.L.R. Fed. 2d 589 (2010).

## 73 Am. Jur. 2d Statutes § 97

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### B. Aids Generally Applicable to Construction

##### 4. Other Laws or Statutory Provisions

###### c. Statutes

## § 97. Earlier statutes on same subject

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.2(.5)

The legislature is presumed to have adopted a new statute in light of, and with reference to, earlier acts on the same subject.<sup>1</sup> The legislature is deemed to be aware of existing statutes, and courts assume that it amends a statute in light of those preexisting statutes.<sup>2</sup> In determining legislative intent, the court may review the earlier versions of the law.<sup>3</sup> Therefore, in the construction of a statute, reference may be made to earlier statutes on the subject<sup>4</sup> which are regarded as *in pari materia* with the later statute.<sup>5</sup> Thus, for example, when a legislature amends a statute by omitting words, it is to be presumed that the legislature intended the statute to have a different meaning than that accorded it before the amendment.<sup>6</sup> Unless the context indicates otherwise, words or phrases in a provision that were used in a prior act pertaining to the same subject matter will be construed in the same sense.<sup>7</sup>

On the other hand, prior acts may not be resorted to in order to create an ambiguity.<sup>8</sup> Where a statute is clear on its face and when standing alone is fairly susceptible of but one construction, the courts will adopt that construction and refuse to consider prior statutes on the same subject.<sup>9</sup> Furthermore, in case of inconsistency between an earlier and a later act on the same subject, the later act controls.<sup>10</sup> The starting point in discerning congressional intent is the existing statutory text and not predecessor statutes.<sup>11</sup>

A court will not infer that a subsequent statute repeals an earlier enactment unless the later statute expressly contradicts the original act or unless such a construction is absolutely necessary in order for the words of the later statute to have any meaning at all.<sup>12</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

When the legislature enacts a law affecting an area which is already the subject of other statutes, it is presumed that it did so with full knowledge of the preexisting legislation and the decisions of the Supreme Court construing and applying that legislation. [McEwen v. Nebraska State College System, 303 Neb. 552, 931 N.W.2d 120 \(2019\)](#).

Statutes are to be construed in harmony with the existing law, and as part of an overall and uniform system of jurisprudence so long as the statutory language does not indicate the legislature intended a change. [Barlow Ranch, Ltd. Partnership v. Greencore Pipeline Co. LLC, 2013 WY 34, 301 P.3d 75 \(Wyo. 2013\)](#).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [State v. Leathers, 799 N.W.2d 606 \(Minn. 2011\)](#).  
As to the judicial construction of former statutes as an aid in statutory interpretation, see [§ 77](#).
- 2 [Shirk v. Vista Unified School Dist., 42 Cal. 4th 201, 64 Cal. Rptr. 3d 210, 164 P.3d 630, 222 Ed. Law Rep. 295 \(2007\)](#), as modified, (Oct. 10, 2007).
- 3 [Hayes v. Price, 313 S.W.3d 645 \(Mo. 2010\)](#).
- 4 [SAIF Corporation v. Walker, 330 Or. 102, 996 P.2d 979 \(2000\)](#).
- 5 [Haveman v. Board of County Road Com'rs for Kent County, 356 Mich. 11, 96 N.W.2d 153, 77 A.L.R.2d 935 \(1959\)](#).
- 6 [Capella v. City of Gainesville, 377 So. 2d 658 \(Fla. 1979\)](#).
- 7 [In re Guardianship of Williams, 159 N.H. 318, 986 A.2d 559 \(2009\)](#).
- 8 [Smith v. State, 99 Miss. 859, 56 So. 179 \(1911\)](#).
- 9 [Preston A. Blair Co. v. Jensen, 49 Idaho 118, 286 P. 366 \(1930\)](#).
- 10 [Beck v. Groe, 245 Minn. 28, 70 N.W.2d 886, 52 A.L.R.2d 875 \(1955\)](#).
- 11 [Lamie v. U.S. Trustee, 540 U.S. 526, 124 S. Ct. 1023, 157 L. Ed. 2d 1024 \(2004\)](#).
- 12 [National Ass'n of Home Builders v. Defenders of Wildlife, 551 U.S. 644, 127 S. Ct. 2518, 168 L. Ed. 2d 467 \(2007\); Local Government Assistance Corp. v. Sales Tax Asset Receivable Corp., 2 N.Y.3d 524, 780 N.Y.S.2d 507, 813 N.E.2d 587 \(2004\)](#).

## 73 Am. Jur. 2d Statutes § 98

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### V. Interpretation

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## § 98. Legislation on same subject enacted by sister states or Congress

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.2(.5), 226

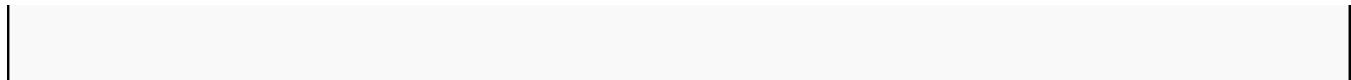
### Forms

[Am. Jur. Pleading and Practice Forms, Evidence §§ 11, 12](#) (Motion—For judicial notice of statute of sister state)

In interpreting statutes, a court may consider similar provisions in sister jurisdictions.<sup>1</sup> Furthermore, in construing state statutes, the courts have, in determining the intention of the legislature in enacting the statute, often considered the acts of Congress upon the same and kindred subjects.<sup>2</sup> Courts may presume that when the legislature borrows a federal statute and enacts it into state law, it has considered and is aware of the legislative history behind that enactment.<sup>3</sup>

### Reminder:

Where a local statute is similar to a federal statute which has been construed by the United States Supreme Court, such construction is entitled to great weight.<sup>4</sup>



## CUMULATIVE SUPPLEMENT

### Cases:

National Labor Relations Act (NLRA) cases are persuasive authority for interpreting similar provisions of state law, including the Myers-Milias-Brown Act (MMBA). [West's Ann.Cal.Gov.Code § 3500 et seq.](#) [County of Los Angeles v. Los Angeles County Employee Relations Com., 56 Cal. 4th 905, 157 Cal. Rptr. 3d 481, 301 P.3d 1102 \(2013\)](#).

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#### Footnotes

- 1 Narayen v. Bailey, 130 Md. App. 458, 747 A.2d 195 (2000).
- 2 Goodrow v. Lane Bryant, Inc., 432 Mass. 165, 732 N.E.2d 289 (2000).
- 3 Clayworth v. Pfizer, Inc., 49 Cal. 4th 758, 111 Cal. Rptr. 3d 666, 233 P.3d 1066 (2010).
- 4 § 79.

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## 73 Am. Jur. 2d Statutes V C Refs.

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### Statutes

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#### C. Titles and Headings; Preamble, Notes, or Comments to Statute; Summaries

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## Research References

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 205, 210, 211

### A.L.R. Library

A.L.R. Index, Statutes

West's A.L.R. Digest, [Statutes](#) 205, 210, 211

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## 73 Am. Jur. 2d Statutes § 99

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### Statutes

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### V. Interpretation

#### C. Titles and Headings; Preamble, Notes, or Comments to Statute; Summaries

### § 99. Title of act

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 211

Even though the title of an act is regarded as no part of the act, it is a generally accepted view in the United States that resort may be had to the title of an act as an aid in its interpretation.<sup>1</sup> The title of legislation is, while not conclusive, a valuable aid to construction.<sup>2</sup> The bill title may be helpful in determining legislative purpose<sup>3</sup> and intent.<sup>4</sup>

The rule which permits reading the title of an act in aid of statutory construction applies only in cases where the legislative meaning is left in doubt by a failure to clearly express it in the law.<sup>5</sup> The title of a statute is of use in interpreting the statute only when it sheds light on some ambiguous word or phrase in the statute itself,<sup>6</sup> and under the normal rules of statutory construction, the title cannot be used to create an ambiguity when the body of the act is clear.<sup>7</sup> The title of an act cannot enlarge or confer powers,<sup>8</sup> cannot limit the plain meaning of the statutory text,<sup>9</sup> cannot defeat the language of the law,<sup>10</sup> and cannot alter the explicit scope, meaning, or intent of a statute.<sup>11</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

Captions to bills and titles to individual statutes may be resorted to in order to ascertain the intent of the legislature. [Marlow, L.L.C. v. BellSouth Telecommunications, Inc.](#), 686 F.3d 303 (5th Cir. 2012).

The title of an act is relevant to the ascertainment of its intent and purpose. [Yonga v. State](#), 221 Md. App. 45, 108 A.3d 448 (2015).

The language of the title cannot overcome the plain intent manifested in the language used in the body of the act, yet where that language is of the same purport as the language used in the body of the act, it is corroborative of the legislative intent. [Yager v. State, 2015 WY 139, 362 P.3d 777 \(Wyo. 2015\)](#).

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Footnotes

- 1 Almendarez-Torres v. U.S., 523 U.S. 224, 118 S. Ct. 1219, 140 L. Ed. 2d 350 (1998).
- 2 Booker v. Jarjura, 120 Conn. App. 1, 990 A.2d 894 (2010), certification denied, 297 Conn. 909, 995 A.2d 636 (2010).
- 3 Lumber 2, Inc. v. Illinois Tool Works, Inc., 2011 OK 74, 261 P.3d 1143 (Okla. 2011).
- 4 Kasischke v. State, 991 So. 2d 803 (Fla. 2008); Lumber 2, Inc. v. Illinois Tool Works, Inc., 2011 OK 74, 261 P.3d 1143 (Okla. 2011).
- 5 Brotherhood of R. R. Trainmen v. Baltimore & O. R. Co., 331 U.S. 519, 67 S. Ct. 1387, 91 L. Ed. 1646 (1947).
- 6 Carter v. U.S., 530 U.S. 255, 120 S. Ct. 2159, 147 L. Ed. 2d 203 (2000); Alvarez v. Pappas, 229 Ill. 2d 217, 321 Ill. Dec. 712, 890 N.E.2d 434 (2008).
- 7 Michigan Ave. Nat. Bank v. County of Cook, 191 Ill. 2d 493, 247 Ill. Dec. 473, 732 N.E.2d 528 (2000).
- 8 Pennhurst State School and Hospital v. Halderman, 451 U.S. 1, 101 S. Ct. 1531, 67 L. Ed. 2d 694 (1981).
- 9 Alvarez v. Pappas, 229 Ill. 2d 217, 321 Ill. Dec. 712, 890 N.E.2d 434 (2008).
- 10 Mireles v. Labor & Industry Review Com'n, 2000 WI 96, 237 Wis. 2d 69, 613 N.W.2d 875 (2000).
- 11 DaFonte v. Up-Right, Inc., 2 Cal. 4th 593, 7 Cal. Rptr. 2d 238, 828 P.2d 140 (1992).

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## 73 Am. Jur. 2d Statutes § 100

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### Statutes

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### V. Interpretation

#### C. Titles and Headings; Preamble, Notes, or Comments to Statute; Summaries

## § 100. Section, chapter, or other subdivision headings

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 211

When the legislature enacts an official title or heading to accompany a statutory provision, that title or heading is only a short-hand reference to the general subject matter involved in that statutory section and cannot limit the plain meaning of the text.<sup>1</sup> In interpreting a statute, a subchapter heading cannot substitute for the operative text of the statute. However, statutory titles and section headings are tools available for the resolution of doubt about the meaning of a statute.<sup>2</sup> Section and subchapter titles cannot alter the plain meaning of a statute; they can only assist in clarifying ambiguity.<sup>3</sup>

### Comment:

The Uniform Statute and Rule Construction Act provides that headings may not be used in construing a statute unless they are contained in the enrolled bill as adopted.<sup>4</sup>

An unofficial, publisher-generated caption is irrelevant in interpreting the scope of a statutory provision.<sup>5</sup> Headings, captions, or catch lines supplied in a compilation of statutes do not constitute any part of the law.<sup>6</sup> Captions of a statute cannot control when the text is clear.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Although section headings cannot limit the plain meaning of a statutory text, they supply cues as to what Congress intended. [Merit Management Group, LP v. FTI Consulting, Inc.](#), 138 S. Ct. 883 (2018).

Statutory captions can be a useful aid in resolving a statutory text's ambiguity. [U.S. v. Quality Stores, Inc.](#), 134 S. Ct. 1395 (2014).

A caption cannot override a statute's text, but it can be used to clear up ambiguities. [U.S. v. Spears](#), 729 F.3d 753 (7th Cir. 2013).

In construing a code provision, chapter and section headings cannot be resorted to for the purpose of creating ambiguity when none exists, but where the intended application of a statute is doubtful, organization and section headings may properly be considered in determining intent, and may even be entitled to considerable weight. [Gonzalez v. Santa Clara County Department of Social Services](#), 220 Cal. App. 4th 326, 163 Cal. Rptr. 3d 110 (6th Dist. 2013).

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#### Footnotes

- 1 Michigan Ave. Nat. Bank v. County of Cook, 191 Ill. 2d 493, 247 Ill. Dec. 473, 732 N.E.2d 528 (2000).
- 2 Florida Dept. of Revenue v. Piccadilly Cafeterias, Inc., 554 U.S. 33, 128 S. Ct. 2326, 171 L. Ed. 2d 203 (2008).
- 3 Minnesota Transp. Regulation Bd. v. U.S., 966 F.2d 335 (8th Cir. 1992); Michigan Ave. Nat. Bank v. County of Cook, 191 Ill. 2d 493, 247 Ill. Dec. 473, 732 N.E.2d 528 (2000).
- 4 Unif. Statute and Rule Construction Act § 13.
- 5 Michigan Ave. Nat. Bank v. County of Cook, 191 Ill. 2d 493, 247 Ill. Dec. 473, 732 N.E.2d 528 (2000). Title or chapter headings are unofficial and do not alter the explicit scope, meaning, or intent of a statute. [Wasatch Property Management v. Degrade](#), 35 Cal. 4th 1111, 29 Cal. Rptr. 3d 262, 112 P.3d 647 (2005), as modified, (July 27, 2005).
- 6 State v. Conklin, 249 Neb. 727, 545 N.W.2d 101 (1996).
- 7 Wal-Mart Stores East, Inc. v. Hinton, 197 N.C. App. 30, 676 S.E.2d 634 (2009).

## 73 Am. Jur. 2d Statutes § 101

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### Statutes

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### V. Interpretation

#### C. Titles and Headings; Preamble, Notes, or Comments to Statute; Summaries

##### § 101. Preamble

[Topic Summary](#) | [Correlation Table](#) | [References](#)

##### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 210

A preamble is not to be considered authority for construing an act, although it is useful for interpreting its purpose and scope,<sup>1</sup> and the preamble to a statute may properly be consulted to confirm legislative intent.<sup>2</sup> Legislative intent is not gleaned solely from the preamble of a statute; rather, it is gleaned from the statute as a whole, which includes the particular directives.<sup>3</sup> Preambles may be used to clarify ambiguities, but they do not create rights that are not found within the statute, nor do they limit those actually given by the legislation.<sup>4</sup> The preamble is no part of the act and cannot enlarge or confer powers, nor control the words of the act unless they are doubtful or ambiguous.<sup>5</sup> While a declaration of policy or a preamble may be used as a tool of statutory construction, it may not be used to create an ambiguity in an otherwise unambiguous statute. To the extent that any express language in a statute contradicts a preamble, the statutory language controls.<sup>6</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Public policy considerations only empower courts to construct gap fillers when a statute is ambiguous, and unambiguous statutory text trumps the statute's purpose or broad public policy preamble. [Sternberg v. Nanticoke Memorial Hosp., Inc.](#), 62 A.3d 1212 (Del. 2013).

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Footnotes

- 1      [Malcolm v. City of East Detroit](#), 437 Mich. 132, 468 N.W.2d 479, 16 A.L.R.5th 1069 (1991).
- 2      [Southern Nebraska Rural Public Power Dist. v. Nebraska Elec. Generation and Transmission Co-op., Inc.](#), 249 Neb. 913, 546 N.W.2d 315 (1996).
- 3      [Briggs v. Eden Council for Hope & Opportunity](#), 19 Cal. 4th 1106, 81 Cal. Rptr. 2d 471, 969 P.2d 564 (1999).
- 4      [Price Development Co., L.P. v. Orem City](#), 2000 UT 26, 995 P.2d 1237 (Utah 2000).
- 5      [National Pride At Work, Inc. v. Governor of Michigan](#), 481 Mich. 56, 748 N.W.2d 524 (2008).
- 6      [People v. McCarty](#), 223 Ill. 2d 109, 306 Ill. Dec. 570, 858 N.E.2d 15 (2006); [National Pride At Work, Inc. v. Governor of Michigan](#), 481 Mich. 56, 748 N.W.2d 524 (2008).

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## 73 Am. Jur. 2d Statutes § 102

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### C. Titles and Headings; Preamble, Notes, or Comments to Statute; Summaries

### § 102. Marginal and revisers' notes

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 211

A headnote inserted by a reviser of statutes is merely an arbitrary designation for the convenience of reference and has no legislative authority to lessen or expand the meaning or letter of the law.<sup>1</sup>

While the authoritativeness of the reviser's notes to the United States Code, as an aid to construction, has been accepted by one intermediate federal court,<sup>2</sup> the United States Supreme Court appears to have confined its holdings in favor of such authoritativeness to interpretations of the Judicial Code.<sup>3</sup>

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#### Footnotes

1 [State v. Knapp](#), 843 S.W.2d 345 (Mo. 1992).

2 [Acron Investments, Inc. v. Federal Sav. & Loan Ins. Corp.](#), 363 F.2d 236 (9th Cir. 1966).

3 [Western Pac. R. Corp. v. Western Pac. R. Co.](#), 345 U.S. 247, 73 S. Ct. 656, 97 L. Ed. 986 (1953).

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## 73 Am. Jur. 2d Statutes § 103

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### C. Titles and Headings; Preamble, Notes, or Comments to Statute; Summaries

### § 103. Official comments; summaries

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 205, 211

Commentaries printed with general statutes, which are not enacted into law by the legislature, are not treated as binding authority by the courts in construing a statute.<sup>1</sup> However, official comments are to be given weight in the construction of statutes<sup>2</sup> and are very persuasive in interpreting the statute to which they apply.<sup>3</sup>

A statute must prevail over any summary thereof.<sup>4</sup>

A court may consider official comments and published comments of the drafters as a source for determining the meaning of an ambiguous provision of a uniform act.<sup>5</sup> Comments accompanying a uniform code when adopted generally have great weight in construing the code.<sup>6</sup> However, where the comments to a uniform act are not adopted by the legislature, they are not binding statutory authority on the courts.<sup>7</sup> Although lacking the force of law, official comments appended to each section of the Uniform Commercial Code are useful aids to interpretation and construction<sup>8</sup> and in construing statutory language and offer assistance in discerning the intent of the legislature in adopting the statutory scheme.<sup>9</sup>

#### Observation:

In some states, the official comments to Uniform Commercial Code are part of the official text of the Code adopted by the legislature and are looked to for guidance by courts.<sup>10</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The court generally does not look to advisory committee notes or other sources of interpretive guidance when the language of the statute is plain. [Belnap v. Howard, 2019 UT 9, 437 P.3d 355 \(Utah 2019\)](#).

## [END OF SUPPLEMENT]

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### Footnotes

1           [Electric Supply Co. of Durham, Inc. v. Swain Elec. Co., Inc., 328 N.C. 651, 403 S.E.2d 291 \(1991\)](#).

2           [Lessner v. Rubinson, 527 Pa. 393, 592 A.2d 678 \(1991\)](#).

3           [LeTellier v. LeTellier, 40 S.W.3d 490, 90 A.L.R.5th 707 \(Tenn. 2001\)](#).

Another source to ascertain legislative intent is the council commentary to the statute; although not binding upon the court, council commentary is persuasive authority in interpreting the statute. [In re B.L.S., 202 Ill. 2d 510, 270 Ill. Dec. 23, 782 N.E.2d 217 \(2002\)](#).

Because the official comments of the California Law Revision Commission concerning legislation are declarative of the intent not only of the draftsman of the code but also of the legislators who subsequently enacted it, the comments are persuasive, albeit not conclusive, evidence of that intent. [Metcalf v. County of San Joaquin, 42 Cal. 4th 1121, 72 Cal. Rptr. 3d 382, 176 P.3d 654 \(2008\)](#).

4           [In re Cervera, 24 Cal. 4th 1073, 103 Cal. Rptr. 2d 762, 16 P.3d 176 \(2001\)](#).

5           [Yale University v. Blumenthal, 225 Conn. 32, 621 A.2d 1304, 81 Ed. Law Rep. 905 \(1993\)](#).

6           [Groseth v. Groseth, 257 Neb. 525, 600 N.W.2d 159 \(1999\)](#).

To interpret the Uniform Interstate Family Support Act (UIFSA), the court relies not only upon the ordinary rules of statutory construction but also upon the official comments to UIFSA. [In re Scott, 160 N.H. 354, 999 A.2d 229 \(2010\)](#).

7           [Matter of Estate of Jetter, 1997 SD 125, 570 N.W.2d 26 \(S.D. 1997\)](#).

8           [Blue Valley Co-op. v. National Farmers Organization, 257 Neb. 751, 600 N.W.2d 786, 39 U.C.C. Rep. Serv. 2d 633 \(1999\)](#).

9           [Wakefield v. Crawley, 6 S.W.3d 442, 40 U.C.C. Rep. Serv. 2d 260 \(Tenn. 1999\)](#).

10          [Gardner Zemke Co. v. Dunham Bush, Inc., 115 N.M. 260, 850 P.2d 319, 20 U.C.C. Rep. Serv. 2d 842 \(1993\)](#).

## 73 Am. Jur. 2d Statutes V D Refs.

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

### D. Language of Statute

[Topic Summary](#) | [Correlation Table](#)

## Research References

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 2470, 2473, 2474

West's Key Number Digest, [Statutes](#) 181(1), 181(2), 185, 188 to 190, 202, 203, 205, 206, 208, 212.2, 223.1

### A.L.R. Library

A.L.R. Index, Statutes

West's A.L.R. Digest, [Constitutional Law](#) 2470, 2473 to 2475

West's A.L.R. Digest, [Statutes](#) 181(1), 181(2), 185, 188 to 190, 202, 203, 205, 206, 208, 212.2, 223.1

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## 73 Am. Jur. 2d Statutes § 104

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### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 1. In General

## § 104. Generally; necessity of ambiguity

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188, 190

As a rule, where the language of a statute is clear<sup>1</sup> and unambiguous,<sup>2</sup> its clear meaning may not be evaded by an administrative body or a court under the guise of construction.<sup>3</sup> In such circumstances, there is no room for judicial interpretation,<sup>4</sup> and the language should generally be given effect without resort to extrinsic guides to construction.<sup>5</sup> In this regard, it has been said that the starting point in statutory interpretation is the language of the statute itself.<sup>6</sup>

On the other hand, where a statute is ambiguous, judicial construction must be used to ascertain the legislative will;<sup>7</sup> in such circumstances, the courts must determine the intent of the legislature in enacting the statute and construe the statute in a manner that reflects that intent.<sup>8</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

In construing a statute, courts look to both the language itself and the specific context in which that language is used. [Merit Management Group, LP v. FTI Consulting, Inc.](#), 138 S. Ct. 883 (2018).

When statutory language is ambiguous, the court is instructed to turn to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part; after considering these extrinsic aids, the court must select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general

purpose of the statute, and avoid an interpretation that would lead to absurd consequences. [Southern California Cement Masons Joint Apprenticeship Committee v. California Apprenticeship Council](#), 213 Cal. App. 4th 1531, 153 Cal. Rptr. 3d 448 (1st Dist. 2013).

When interpreting a statute, the Supreme Court looks first to the language of the statute, giving words their plain and ordinary meaning; if the plain language of the statute demonstrates a clear legislative intent, the Supreme Court looks no further. [Young v. Brighton School District](#) 27J, 2014 CO 32, 325 P.3d 571 (Colo. 2014).

Court's duty to give effect to plain language of unambiguous statute is not diluted just because that effect renders the statute unconstitutional. [Hoesli v. Triplett, Inc.](#), 361 P.3d 504 (Kan. 2015).

The governing rule of statutory construction is that courts are obliged to interpret a statute to effectuate the intent of the Legislature, and when the statutory language is clear and unambiguous, it should be construed so as to give effect to the plain meaning of the words used. [People v. Middlebrooks](#), 25 N.Y.3d 516, 35 N.E.3d 464 (2015).

When the general assembly has plainly and unambiguously conveyed its legislative intent behind a statute, there is nothing for a court to interpret or construe, and therefore, the court applies the law as written. [State v. Erskine](#), 2015-Ohio-710, 29 N.E.3d 272 (Ohio Ct. App. 4th Dist. Highland County 2015).

Courts adhere to two primary rules of statutory construction: (1) language expressed in statute is the paramount consideration, and (2) if words and phrases in statute have plain meaning and effect, courts should simply declare their meaning and not resort to statutory construction. [Holsti v. Kimber](#), 2014 SD 21, 845 N.W.2d 923 (S.D. 2014).

## [END OF SUPPLEMENT]

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### Footnotes

- 1      [Public Agency Compensation Trust \(PACT\) v. Blake](#), 265 P.3d 694, 127 Nev. Adv. Op. No. 77 (Nev. 2011); [In re Marriage of Mathis](#), 356 Ill. Dec. 96, 960 N.E.2d 1219 (App. Ct. 4th Dist. 2011); [Adams v. State](#), 960 N.E.2d 793 (Ind. 2012); [Davis v. State](#), 91 A.D.3d 1356, 937 N.Y.S.2d 521 (4th Dep't 2012); [In re Vogler Realty, Inc.](#), 2012 WL 293038 (N.C. 2012).
- 2      [Doroshow, Pasquale, Krawitz & Bhaya v. Nanticoke Memorial Hosp., Inc.](#), 36 A.3d 336 (Del. 2012); [State v. Decker](#), 152 Idaho 142, 267 P.3d 729 (Ct. App. 2011), review denied, (Jan. 27, 2012); [In re Marriage of Mathis](#), 356 Ill. Dec. 96, 960 N.E.2d 1219 (App. Ct. 4th Dist. 2011); [Adams v. State](#), 960 N.E.2d 793 (Ind. 2012); [Shirley Wayside Ltd. Partnership v. Board of Appeals of Shirley](#), 461 Mass. 469, 961 N.E.2d 1055 (2012); [In re S.M.M.D.](#), 128 Nev. Adv. Op. No. 2, 2012 WL 247964 (Nev. 2012); [Davis v. State](#), 91 A.D.3d 1356, 937 N.Y.S.2d 521 (4th Dep't 2012).
- 3      [Adams v. State](#), 960 N.E.2d 793 (Ind. 2012); [Davis v. State](#), 91 A.D.3d 1356, 937 N.Y.S.2d 521 (4th Dep't 2012); [In re Vogler Realty, Inc.](#), 2012 WL 293038 (N.C. 2012).
- 4      [In re Young](#), 202 N.J. 50, 995 A.2d 826, 257 Ed. Law Rep. 700 (2010); [Shell v. Ohio Veterinary Med. Licensing Bd.](#), 105 Ohio St. 3d 420, 2005-Ohio-2423, 827 N.E.2d 766 (2005); [In re Detention of Danforth](#), 173 Wash. 2d 59, 264 P.3d 783 (2011); [Lehman v. United Bank, Inc.](#), 228 W. Va. 202, 719 S.E.2d 370 (2011).
- 5      [Public Agency Compensation Trust \(PACT\) v. Blake](#), 265 P.3d 694, 127 Nev. Adv. Op. No. 77 (Nev. 2011); [State v. Decker](#), 152 Idaho 142, 267 P.3d 729 (Ct. App. 2011), review denied, (Jan. 27, 2012); [In re Marriage of Mathis](#), 356 Ill. Dec. 96, 960 N.E.2d 1219 (App. Ct. 4th Dist. 2011); [In re Vogler Realty, Inc.](#), 2012 WL 293038 (N.C. 2012).
- 6      If the language of a statute yields a plain meaning that does not lead to an absurd result, the analysis ends. [Carranza v. U.S.](#), 2011 UT 80, 267 P.3d 912 (Utah 2011).  
[Laguna Hermosa Corp. v. U.S.](#), 671 F.3d 1284 (Fed. Cir. 2012).

When the meaning of the language of a statute is plain and unambiguous, a court enforces the statute according to its plain wording unless a literal construction would yield an absurd or unworkable result.

*Shirley Wayside Ltd. Partnership v. Board of Appeals of Shirley*, 461 Mass. 469, 961 N.E.2d 1055 (2012).

As to the use of legislative history, generally, as an aid to the interpretation of statutes, see § 83.

7            *Los Angeles County Metropolitan Transp. Authority v. Alameda Produce Market, LLC*, 52 Cal. 4th 1100, 133 Cal. Rptr. 3d 738, 264 P.3d 579 (2011); *Cook v. Atlanta, Indiana Town Council*, 956 N.E.2d 1176 (Ind. Ct. App. 2011); *State v. Pegelow*, 809 N.W.2d 245 (Minn. Ct. App. 2012); *State v. Hudson*, 2012 WL 360464 (N.J. 2012).

8            *G.C. Wallace, Inc. v. Eighth Judicial Dist. Court of State, ex rel. County of Clark*, 262 P.3d 1135, 127 Nev. Adv. Op. No. 64 (Nev. 2011).

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## 73 Am. Jur. 2d Statutes § 105

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 1. In General

## § 105. Determination of existence of ambiguity; "ambiguity" defined

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 190

The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.<sup>1</sup> Statutory language is ambiguous if reasonable minds could differ as to its meaning.<sup>2</sup> Other authority holds that statutory language is ambiguous if it is capable of more than one reasonable interpretation.<sup>3</sup> However, the fact that parties proffer different interpretations of statutory language does not make the language ambiguous; it just makes the court's role difficult in deciding which interpretation is persuasive.<sup>4</sup> Furthermore, it has been stated that a statute is ambiguous if an agency must use its discretion to determine how best to implement legislative policy in those cases not covered by the statute's specific terms.<sup>5</sup>

A statute may be ambiguous without being inartful or deficient.<sup>6</sup> Use may be made by the courts of aids to the construction of the meaning of words used in a statute even where, on superficial examination, the meaning of the words seems clear.<sup>7</sup> An ambiguity justifying the interpretation of a statute is not simply that arising from the meaning of particular words but includes such as may arise in respect to the general scope and meaning of a statute when all its provisions are examined.<sup>8</sup>

The courts regard an ambiguity to exist where the legislature has enacted two or more provisions or statutes which appear to be inconsistent.<sup>9</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

The plainness or ambiguity of statutory language is determined not only by reference to the language itself, but as well by the specific context in which that language is used, and the broader context of the statute as a whole. (Per Justice Ginsburg, with three Justices concurring and one Justice concurring in the judgment.) [Yates v. U.S., 135 S. Ct. 1074 \(2015\)](#).

To test for ambiguity, the court must examine the language of the statute, the specific context in which that language is used, and the broader context of the statute as a whole; however, because the meaning, or ambiguity, of certain words or phrases may only become evident when placed in context, the court reads them in their context and with a view to their place in the overall statutory scheme. [U.S. v. Chafin, 808 F.3d 1263 \(11th Cir. 2015\)](#).

If statutory language is susceptible to more than one reasonable interpretation, it is ambiguous and the court may apply other rules of statutory interpretation. [People v. Diaz, 2015 CO 28, 347 P.3d 621 \(Colo. 2015\)](#).

When statutory language is ambiguous, the Supreme Court examines the proffered interpretations and considers the context in which the language is used, the evils to be remedied and the objects in view. [State v. Neal, 362 P.3d 514 \(Idaho 2015\)](#).

Multiple parts of a statute may be read together so as to ascertain whether the statute is ambiguous. [In re Dakota County, 866 N.W.2d 905 \(Minn. 2015\)](#).

When interpreting a statute, the Supreme Court looks first to the plain and ordinary meaning of the words to determine if the statute is ambiguous; a statute is clear and unambiguous if its wording is such that reasonable persons are able to agree on its meaning with consistency and predictability, and conversely, a statute is ambiguous if it is found to be vague or uncertain and subject to varying interpretations. [Electrical Wholesale Supply Co., Inc. v. Fraser, 2015 WY 105, 356 P.3d 254 \(Wyo. 2015\)](#).

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**Footnotes**

- 1 Robinson v. Shell Oil Co., 519 U.S. 337, 117 S. Ct. 843, 136 L. Ed. 2d 808 (1997); Bosamia v. C.I.R., 661 F.3d 250 (5th Cir. 2011).
- 2 Zingiber Inv., LLC v. Hagerman Highway Dist., 150 Idaho 675, 249 P.3d 868 (2011); MD Elec. Contractors, Inc. v. Abrams, 228 Ill. 2d 281, 320 Ill. Dec. 837, 888 N.E.2d 54 (2008).
- 3 J.E. Dunn Northwest, Inc. v. Corus Const. Venture, LLC, 249 P.3d 501, 127 Nev. Adv. Op. No. 5 (Nev. 2011); Bender v. Bender, 292 Conn. 696, 975 A.2d 636 (2009); Taylor v. Diamond State Port Corp., 14 A.3d 536 (Del. 2011); Kimbrough v. Idaho Bd. of Tax Appeals, 150 Idaho 417, 247 P.3d 644 (2011); In re Higera N., 2010 ME 77, 2 A.3d 265 (Me. 2010), cert. denied, 131 S. Ct. 2094, 179 L. Ed. 2d 926 (2011); State v. Vue, 797 N.W.2d 5 (Minn. 2011).  
A provision of the law is "ambiguous" only if it irreconcilably conflicts with another provision. [People v. Gardner, 482 Mich. 41, 753 N.W.2d 78 \(2008\)](#).
- 4 When there is doubt, doubleness of meaning, or indistinctiveness or uncertainty of an expression used in a statute, an ambiguity exists. [Jaylo v. Jaylo, 125 Haw. 369, 262 P.3d 245 \(2011\)](#).  
[In re American Home Mortg. Holdings, Inc., 637 F.3d 246 \(3d Cir. 2011\)](#); [State v. M.C., 148 Wash. App. 968, 201 P.3d 413 \(Div. 1 2009\)](#); [In re Commitment of West, 2011 WI 83, 336 Wis. 2d 578, 800 N.W.2d 929 \(2011\)](#).
- 5 [U.S. v. Haggar Apparel Co., 526 U.S. 380, 119 S. Ct. 1392, 143 L. Ed. 2d 480 \(1999\)](#).
- 6 [U.S. v. Haggar Apparel Co., 526 U.S. 380, 119 S. Ct. 1392, 143 L. Ed. 2d 480 \(1999\)](#).
- 7 [U.S. v. American Trucking Ass'n's, 310 U.S. 534, 60 S. Ct. 1059, 84 L. Ed. 1345 \(1940\)](#); [McSpadden v. Mahoney, 1964 OK 260, 402 P.2d 656 \(Okla. 1964\)](#).

8 State v. Hutton, 796 N.W.2d 898 (Iowa 2011); State v. Rawson, 210 Or. 593, 312 P.2d 849 (1957); State  
ex rel. Hardesty v. Aracoma - Chief Logan No. 4523, Veterans of Foreign Wars of U.S., Inc., 147 W. Va.  
645, 129 S.E.2d 921 (1963).

9 Town of Clayton v. Colorado & S R Co, 51 F.2d 977, 82 A.L.R. 417 (C.C.A. 10th Cir. 1931); State v.  
Bethlehem Steel Corporation, 37 Del. 441, 184 A. 873 (Super. Ct. 1936); State ex rel. Rucker v. Tapp, 1963  
OK 37, 380 P.2d 260 (Okla. 1963).

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## 73 Am. Jur. 2d Statutes § 106

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 106. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

If the statutory language is unambiguous, in the absence of a clearly expressed legislative intent to the contrary, that language must ordinarily be regarded as conclusive.<sup>1</sup> In this regard, it has been stated that the legislative intent of Congress is to be derived from the language and structure of the statute itself, if possible, not from assertions of codifiers directly at odds with the clear statutory language.<sup>2</sup> The courts may not speculate as to the probable intent of the legislature apart from the words in the applicable statutes.<sup>3</sup>

### Observation:

It is provided under the U.S.R.C.A. that the text of a statute or rule is the primary, essential source of its meaning.<sup>4</sup>

It is a cardinal principle of statutory construction that a statute should, upon the whole, be construed so that, if possible, no clause, sentence, or word is rendered superfluous, void, or insignificant.<sup>5</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

It is a function of the court to give a statute the effect its language suggests, however modest that may be. [Digital Realty Trust, Inc. v. Somers](#), 138 S. Ct. 767 (2018).

In interpreting statutes, the Supreme Court always starts with the statutory language. [Advocate Health Care Network v. Stapleton](#), 137 S. Ct. 1652 (2017).

Court's analysis of a statute begins with the language of the statute. [Esquivel-Quintana v. Sessions](#), 137 S. Ct. 1562 (2017).

Where a statute's language is plain, resolution of disputed issue begins with the language of the statute, and that is also where the inquiry should end. [Puerto Rico v. Franklin California Tax-Free Trust](#), 136 S. Ct. 1938 (2016).

A long-established practice does not justify a rule that denies statutory text its fairest reading. [Armstrong v. Exceptional Child Center, Inc.](#), 135 S. Ct. 1378 (2015).

In statutory interpretation case, analysis of the statutory text, aided by established principles of interpretation, controls. [POM Wonderful LLC v. Coca-Cola Co.](#), 134 S. Ct. 2228 (2014).

It is not for courts arbitrarily to read into a statute that which it does not say; just as courts are not to eliminate through judicial interpretation words that were purposely included, courts are obliged not to add to statutes something the legislature purposely omitted. [Quicken Loans, Inc. v. Brown](#), 737 S.E.2d 640 (W. Va. 2012).

## [END OF SUPPLEMENT]

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### Footnotes

- 1           U.S. v. Turkette, 452 U.S. 576, 101 S. Ct. 2524, 69 L. Ed. 2d 246 (1981).
- 2           U.S. v. Lanier, 520 U.S. 259, 117 S. Ct. 1219, 137 L. Ed. 2d 432 (1997); [Miller v. Allstate Ins. Co.](#), 481 Mich. 601, 751 N.W.2d 463 (2008); [Cosmopolitan Engineering Group, Inc. v. Ondeo Degremont, Inc.](#), 159 Wash. 2d 292, 149 P.3d 666 (2006).
- 3           [Tinkle v. State](#), 230 Ark. 966, 328 S.W.2d 111, 77 A.L.R.2d 979 (1959); [County of Santa Clara v. Perry](#), 18 Cal. 4th 435, 75 Cal. Rptr. 2d 738, 956 P.2d 1191 (1998).  
When interpreting a statute, the court's overarching duty is to construe and apply the statute as enacted.  
[Daidone v. Buterick Bulkheading](#), 191 N.J. 557, 924 A.2d 1193 (2007).
- 4           Unif. Statute and Rule Construction Act § 19.
- 5           [TRW Inc. v. Andrews](#), 534 U.S. 19, 122 S. Ct. 441, 151 L. Ed. 2d 339 (2001); [American Home Assur. Co. v. Plaza Materials Corp.](#), 908 So. 2d 360 (Fla. 2005).

## 73 Am. Jur. 2d Statutes § 107

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

#### V. Interpretation

##### D. Language of Statute

###### 2. Adherence to or Departure from Statute as Enacted

## § 107. Avoidance of judicial legislation

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 2470, 2474

West's Key Number Digest, [Statutes](#) 188

As a result of constitutional provisions distributing the powers of government among three departments—the legislative, executive, and judicial departments<sup>1</sup>—courts have no legislative authority<sup>2</sup> and should avoid judicial legislation, a usurpation of legislative powers, or an entry into the legislative field.<sup>3</sup> A court may not legislate, rewrite, or extend legislation;<sup>4</sup> when the legislature has spoken plainly, it is not the function of courts to change or amend its enactments under the guise of construing them.<sup>5</sup> In interpreting a statute, the court can neither insert language that has been left out nor omit language that has been inserted.<sup>6</sup> If an act passed by the legislature is within its constitutional power, it is not the business of the court to attempt to twist the interpretation of the law to conform to the ideas of the judges as to what the law ought to be or to attempt to make the law coincide with their ideas of social justice.<sup>7</sup> That a court may rue inartful legislative drafting does not excuse it from the responsibility of construing a statute as faithfully as possible to its actual text.<sup>8</sup> It is a court's function to give a statute the effect its language suggests, however modest that may be, not to extend it to admirable purposes it might be used to achieve.<sup>9</sup> Thus, whatever its opinion may be as to the wisdom of a statute or the necessity for further legislation, the duty of a court is to apply the law objectively as found and not to revise it.<sup>10</sup>

A court may not alter the law by construction because it appears outmoded.<sup>11</sup> A statute may not, under the guise of interpretation, be modified, revised, amended, distorted, remodeled, or rewritten,<sup>12</sup> given a construction of which its words are not susceptible<sup>13</sup> or which is repugnant to its terms.<sup>14</sup> Thus, when interpreting a statute, a court has no power to rewrite the statute so as to make it conform to a presumed intention which is not expressed.<sup>15</sup> Similarly, a court may not rewrite a clear and unambiguous statute to make it pass constitutional muster.<sup>16</sup> Once the legislature has made a choice, there is no room for the courts to impose a

different interpretation of a statute based upon their own notions of public policy.<sup>17</sup> However, words or phrases may be altered where that is necessary to obviate repugnancy and inconsistency and to give effect to the manifest intention of the legislature,<sup>18</sup> especially where it is necessary to prevent a law from becoming a nullity.<sup>19</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

It is not the proper role of the courts to rewrite the laws passed by Congress and signed by the President. [Nasrallah v. Barr](#), 140 S. Ct. 1683, 207 L. Ed. 2d 111 (2020).

Redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text. [Barton v. Barr](#), 140 S. Ct. 1442 (2020).

Supreme Court must enforce the statute that Congress enacted. [Obduskey v. McCarthy & Holthus LLP](#), 139 S. Ct. 1029 (2019).

It is not a court's function to rewrite a constitutionally valid statutory text under the banner of speculation about what Congress might have intended. [Wisconsin Central Ltd. v. U.S.](#), 138 S. Ct. 2067 (2018).

The Supreme Court is not free to rewrite a statute to the Government's liking. [National Ass'n of Mfrs. v. Department of Defense](#), 138 S. Ct. 617 (2018).

While it is the job of the courts to apply faithfully the law Congress has written, it is never the courts' job to rewrite a constitutionally valid statutory text under the banner of speculation about what Congress might have done had it faced a question that, on everyone's account, it never faced. [Henson v. Santander Consumer USA Inc.](#), 137 S. Ct. 1718 (2017).

Proper role of the judiciary is to apply, not amend, the work of the People's representatives. [Henson v. Santander Consumer USA Inc.](#), 137 S. Ct. 1718 (2017).

Nation's constitutional structure does not permit the Supreme Court to rewrite the statute that Congress has enacted. [Puerto Rico v. Franklin California Tax-Free Trust](#), 136 S. Ct. 1938 (2016).

Role of Supreme Court is to apply the statute as it is written, even if the Court thinks some other approach might accord with good policy. [Burrage v. U.S.](#), 134 S. Ct. 881 (2014).

The role of the Supreme Court is to apply a statute as it is written, even if the Court thinks some other approach might accord with good policy. [Sandifer v. U.S. Steel Corp.](#), 134 S. Ct. 870 (2014).

Court of Appeals cannot replace the actual text of a statute with speculation as to Congress intent. [Flores-Abarca v. Barr](#), 937 F.3d 473 (5th Cir. 2019).

Courts are not at liberty to rewrite a statute because they might deem its effects susceptible of improvement. [Preston v. Midland Credit Management, Inc.](#), 948 F.3d 772 (7th Cir. 2020).

Under the separation of powers doctrine, courts should be very careful not to invade the authority of the legislature; nor should anxiety to maintain the constitution, laudable as that must ever be esteemed, lessen their caution in that particular, for if they overstep the authority which belongs to them, and assume that which pertains to the legislature, they violate the very constitution

which they thereby seek to preserve and maintain. [West's A.I.C. Const. Art. 3, § 1. Berry v. Crawford, 990 N.E.2d 410 \(Ind. 2013\).](#)

A court may neither rewrite a plainly-written enactment of the Legislature nor presume that the Legislature intended something other than that expressed by way of the plain language. [Cashin v. Bello, 223 N.J. 328, 123 A.3d 1042 \(2015\).](#)

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [People v. Johnson, 183 Cal. App. 4th 253, 107 Cal. Rptr. 3d 228 \(3d Dist. 2010\), review denied, \(July 14, 2010\); Miami-Dade County v. Rodriguez, 67 So. 3d 1213 \(Fla. Dist. Ct. App. 3d Dist. 2011\), review granted, 76 So. 3d 938 \(Fla. 2011\); Hussein v. State, 81 A.D.3d 132, 914 N.Y.S.2d 464, 263 Ed. Law Rep. 326 \(3d Dep't 2011\); State ex rel. Holmes v. Clawges, 226 W. Va. 479, 702 S.E.2d 611 \(2010\).](#)
- 2 [California School Boards Assn. v. State, 192 Cal. App. 4th 770, 121 Cal. Rptr. 3d 696, 265 Ed. Law Rep. 347 \(4th Dist. 2011\), review denied, \(May 18, 2011\); Lummi Indian Nation v. State, 170 Wash. 2d 247, 241 P.3d 1220 \(2010\).](#)
- 3 [Ebert v. Poston, 266 U.S. 548, 45 S. Ct. 188, 69 L. Ed. 435 \(1925\); Pickering v. Pickering, 268 Mich. App. 1, 706 N.W.2d 835 \(2005\); Marshall v. Marshall Farms, Inc., 332 S.W.3d 121 \(Mo. Ct. App. S.D. 2010\), transfer denied, \(Mar. 29, 2011\); State ex rel. Ozanne v. Fitzgerald, 2011 WI 43, 334 Wis. 2d 70, 798 N.W.2d 436 \(2011\).](#)
- 4 [Walker v. Montgomery County Bd. of Educ., 2011 WL 5252571 \(Ala. Civ. App. 2011\); Ries v. City of Chicago, 242 Ill. 2d 205, 351 Ill. Dec. 135, 950 N.E.2d 631 \(2011\); In re Conservatorship of Alessio, 803 N.W.2d 656 \(Iowa 2011\); State v. Hudson, 2012 WL 360464 \(N.J. 2012\).](#)
- 5 [Lahey v. Johnson, 283 Va. 225, 720 S.E.2d 534 \(2012\).](#)
- 6 [Jenkins v. City of Corona, 44 Cal. Rptr. 3d 366 \(Cal. App. 4th Dist. 2006\).](#)
- 7 [Connecticut Podiatric Medical Ass'n v. Health Net of Connecticut, Inc., 302 Conn. 464, 28 A.3d 958 \(2011\); Jairy R. v. Jeffrey H., 34 Misc. 3d 448, 934 N.Y.S.2d 688 \(Fam. Ct. 2011\).](#)
- 8 [DePierre v. U.S., 131 S. Ct. 2225, 180 L. Ed. 2d 114 \(2011\).](#)
- 9 [Morrison v. National Australia Bank Ltd., 130 S. Ct. 2869, 177 L. Ed. 2d 535, 76 Fed. R. Serv. 3d 1330 \(2010\).](#)
- 10 [Board of Education of City of Minneapolis v. Public School Employees' Local Union No. 63, AFL, 233 Minn. 144, 45 N.W.2d 797, 29 A.L.R.2d 424 \(1951\).](#)
- 11 [State v. Emery, 224 N.C. 581, 31 S.E.2d 858, 157 A.L.R. 441 \(1944\).](#)
- 12 [Matson Nav. Co. v. U.S., 284 U.S. 352, 52 S. Ct. 162, 76 L. Ed. 336 \(1932\); City of Pasadena v. AT&T Communications of California, Inc., 103 Cal. App. 4th 981, 127 Cal. Rptr. 2d 276 \(2d Dist. 2002\); Lucas v. Fairbanks Capital Corp., 217 W. Va. 479, 618 S.E.2d 488 \(2005\).](#)
- 13 [Hindman v. Reaser, 246 Iowa 1375, 72 N.W.2d 559 \(1955\); Hutchins v. Commissioner of Corporations and Taxation, 272 Mass. 422, 172 N.E. 605, 71 A.L.R. 677 \(1930\); Lucas v. Fairbanks Capital Corp., 217 W. Va. 479, 618 S.E.2d 488 \(2005\).](#)
- 14 [Lucas v. Fairbanks Capital Corp., 217 W. Va. 479, 618 S.E.2d 488 \(2005\).](#)
- 15 [Reliable Tree Experts v. Baker, 200 Cal. App. 4th 785, 133 Cal. Rptr. 3d 186 \(1st Dist. 2011\).](#)
- 16 [People v. One 1998 GMC, 2011 IL 110236, 355 Ill. Dec. 900, 960 N.E.2d 1071 \(Ill. 2011\); Rural Water Dist. #2 v. City of Louisburg, 288 Kan. 811, 207 P.3d 1055 \(2009\).](#)
- 17 [Liberty Mut. Ins. Co. v. South Carolina Second Injury Fund, 363 S.C. 612, 611 S.E.2d 297 \(Ct. App. 2005\).](#)
- 18 [Tew v. Hillsdale Tool & Mfg. Co., 268 Mich. App. 399, 706 N.W.2d 883 \(2005\); Holsapple v. Com., 38 Va. App. 480, 566 S.E.2d 210 \(2002\), on reh'g en banc, 39 Va. App. 522, 574 S.E.2d 756 \(2003\), judgment aff'd, 266 Va. 593, 587 S.E.2d 561 \(2003\).](#)

As to the substitution of words in a statute for the purpose of correcting legislative errors, see § 112.

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## 73 Am. Jur. 2d Statutes § 108

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 108. Effect of new cases, conditions, and subjects

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 215

Statutes are to be read in the light of attendant conditions at the time of their enactment.<sup>1</sup> Thus, the fact that events probably not foreseen by the legislature have occurred does not permit the court to undertake to enact new law.<sup>2</sup> Indeed, new things may arise which are not regarded within the meaning of a statute although they are within the terms thereof.<sup>3</sup>

On the other hand, it is a general rule of statutory construction that in the absence of a contrary indication, legislative enactments which are prospective in operation and which are couched in general and comprehensive terms<sup>4</sup> broad enough to include unknown things that might spring into existence in the future,<sup>5</sup> even though they are words of the present tense,<sup>6</sup> apply alike to new situations,<sup>7</sup> cases,<sup>8</sup> conditions,<sup>9</sup> things,<sup>10</sup> subjects,<sup>11</sup> methods,<sup>12</sup> inventions,<sup>13</sup> or persons or entities coming into existence subsequent to their passage,<sup>14</sup> where such situations, cases, conditions, things, subjects, methods, inventions, persons, or entities are of the same class as those specified<sup>15</sup> and can reasonably be said to come within the general purview,<sup>16</sup> scope,<sup>17</sup> purpose,<sup>18</sup> and policy of the statute,<sup>19</sup> and the evident meaning of the terms used.<sup>20</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

If during the course of the Supreme Court's work an ambiguous statutory term or phrase emerges, the Court will sometimes consult contemporaneous usages, customs, and practices to the extent they shed light on the meaning of the language in question at the time of enactment. [McGirt v. Oklahoma](#), 140 S. Ct. 2452 (2020).

[END OF SUPPLEMENT]

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Footnotes

1 In re Allcat Claims Service, L.P., 356 S.W.3d 455 (Tex. 2011); Fraternal Order of Eagles Sheridan Aerie No. 186, Inc. v. State ex rel. Forwood, 2006 WY 4, 126 P.3d 847 (Wyo. 2006).

2 Farmers and Mechanics Sav. Bank of Minneapolis v. Department of Commerce, Securities Div., 258 Minn. 99, 102 N.W.2d 827 (1960); Orr Ditch & Water Co. v. Justice Court of Reno Tp., Washoe County, 64 Nev. 138, 178 P.2d 558 (1947).

3 Orr Ditch & Water Co. v. Justice Court of Reno Tp., Washoe County, 64 Nev. 138, 178 P.2d 558 (1947); State v. Nashville Baseball Ass'n, 141 Tenn. 456, 211 S.W. 357, 4 A.L.R. 368 (1919).

4 Feitler v. U.S., 34 F.2d 30 (C.C.A. 3d Cir. 1929), aff'd, 281 U.S. 389, 50 S. Ct. 344, 74 L. Ed. 923 (1930); Lockhart v. Wolden, 17 Cal. 2d 628, 111 P.2d 319 (1941); Kruck v. Needles, 259 Iowa 470, 144 N.W.2d 296 (1966).

5 Feitler v. U.S., 34 F.2d 30 (C.C.A. 3d Cir. 1929), aff'd, 281 U.S. 389, 50 S. Ct. 344, 74 L. Ed. 923 (1930); State v. Dean, 155 Wash. 383, 284 P. 756 (1930).

6 Pacific Milling & Elevator Co. v. City of Portland, 65 Or. 349, 133 P. 72 (1913).

7 Jerome H. Remick & Co. v. American Automobile Accessories Co., 5 F.2d 411, 40 A.L.R. 1511 (C.C.A. 6th Cir. 1925).

8 State ex rel. Chaney v. Grinstead, 314 Mo. 55, 282 S.W. 715 (1926); Com. v. Maxwell, 271 Pa. 378, 114 A. 825, 16 A.L.R. 1134 (1921).

9 Gaiser v. Buck, 203 Ind. 9, 179 N.E. 1, 82 A.L.R. 1348 (1931).

10 Gaiser v. Buck, 203 Ind. 9, 179 N.E. 1, 82 A.L.R. 1348 (1931); Pacific Milling & Elevator Co. v. City of Portland, 65 Or. 349, 133 P. 72 (1913).

11 Feitler v. U.S., 34 F.2d 30 (C.C.A. 3d Cir. 1929), aff'd, 281 U.S. 389, 50 S. Ct. 344, 74 L. Ed. 923 (1930); Lockhart v. Wolden, 17 Cal. 2d 628, 111 P.2d 319 (1941).

12 San Antonio & A.P. Ry. Co. v. Southwestern Tel. & Tel. Co., 93 Tex. 313, 55 S.W. 117 (1900).

13 San Antonio & A.P. Ry. Co. v. Southwestern Tel. & Tel. Co., 93 Tex. 313, 55 S.W. 117 (1900).

14 Feitler v. U.S., 34 F.2d 30 (C.C.A. 3d Cir. 1929), aff'd, 281 U.S. 389, 50 S. Ct. 344, 74 L. Ed. 923 (1930); Lockhart v. Wolden, 17 Cal. 2d 628, 111 P.2d 319 (1941).

15 Gaiser v. Buck, 203 Ind. 9, 179 N.E. 1, 82 A.L.R. 1348 (1931); State v. City of Cleveland, 83 Ohio St. 61, 93 N.E. 467 (1910).

16 Feitler v. U.S., 34 F.2d 30 (C.C.A. 3d Cir. 1929), aff'd, 281 U.S. 389, 50 S. Ct. 344, 74 L. Ed. 923 (1930); Pellish Bros. v. Cooper, 47 Wyo. 480, 38 P.2d 607 (1934).

17 Palmer v. State, 197 Ind. 625, 150 N.E. 917 (1926); Application of Fox Film Corp., 295 Pa. 461, 145 A. 514, 64 A.L.R. 499 (1929).

18 Pellish Bros. v. Cooper, 47 Wyo. 480, 38 P.2d 607 (1934).

19 Com. v. Maxwell, 271 Pa. 378, 114 A. 825, 16 A.L.R. 1134 (1921); State v. Dean, 155 Wash. 383, 284 P. 756 (1930).

20 Buck v. Jewell-La Salle Realty Co., 283 U.S. 191, 51 S. Ct. 410, 75 L. Ed. 971, 76 A.L.R. 1266 (1931); Summer v. State Highway Com'n of South Carolina, 143 S.C. 196, 141 S.E. 366 (1928).

## 73 Am. Jur. 2d Statutes § 109

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 109. Extension of statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 181(2)

Generally, nothing may be read into a statute which is not within the manifest intention of the legislature as gathered from the act itself.<sup>1</sup> and a statute should not be construed any more broadly or given any greater effect than its terms require.<sup>2</sup> Where the language of the statute is clear in limiting its application to a particular class of cases and leaves no room for doubt as to the intention of the legislature, there is no authority to transcend<sup>3</sup> or add to the statute,<sup>4</sup> which may not be enlarged, stretched, or expanded.<sup>5</sup> A court may not read into a statute qualifications or modifications that will materially affect its operation so as to conform to a supposed intention not expressed by the legislature.<sup>6</sup> However, the meaning of a statute may be extended beyond the precise words used in the law,<sup>7</sup> and words or phrases may be enlarged, where that is necessary to obviate repugnancy and inconsistency, and give effect to the manifest intention of the legislature<sup>8</sup> and to carry out the general scope and purpose of the act.<sup>9</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The Supreme Court usually does not read into statutes words that are not there; the Court is doubly careful to avoid reading words into a statute when Congress has included the term in question elsewhere in the very same statutory provision. [Romag Fasteners, Inc v. Fossil, Inc.](#), 140 S. Ct. 1492 (2020).

[END OF SUPPLEMENT]

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Footnotes

1 Yu Cong Eng v. Trinidad, 271 U.S. 500, 46 S. Ct. 619, 70 L. Ed. 1059 (1926); Howard v. Illinois Cent. R. Co., 207 U.S. 463, 28 S. Ct. 141, 52 L. Ed. 297 (1908); People v. Breidenbach, 489 Mich. 1, 798 N.W.2d 738 (2011); Plumlee v. Plumlee, 2012 OK CIV APP 10, 2011 WL 7293402 (Div. 2 2011); Anthis v. Copland, 270 P.3d 574 (Wash. 2012).  
The court does not read into the statute a provision which the legislature did not see fit to put there, whether the omission came from inadvertence or of set purpose. [Com. v. Lojko](#), 77 Mass. App. Ct. 82, 928 N.E.2d 679 (2010).

2 Root v. New Liberty Hosp. Dist., 209 F.3d 1068 (8th Cir. 2000); Huffman v. Oklahoma Coca-Cola Bottling Co., 1955 OK 76, 281 P.2d 436 (Okla. 1955); Turner v. Harris, 198 Tenn. 654, 281 S.W.2d 661 (1955).  
As to resort to extrinsic matters for the purpose of extending a statute, generally, see [§ 64](#).

3 Henry v. A.B. Dick Co., 224 U.S. 1, 32 S. Ct. 364, 56 L. Ed. 645 (1912) (overruled in part on other grounds by, [Motion Picture Patents Co. v. Universal Film Mfg. Co.](#), 243 U.S. 502, 37 S. Ct. 416, 61 L. Ed. 871 (1917)).

4 Matson Nav. Co. v. U.S., 284 U.S. 352, 52 S. Ct. 162, 76 L. Ed. 336 (1932); [State v. Ottinger](#), 46 Kan. App. 2d 647, 264 P.3d 1027 (2011); [In re Brady](#), 145 N.H. 308, 761 A.2d 1072 (2000); [State v. Thomas](#), 106 Ohio St. 3d 133, 2005-Ohio-4106, 832 N.E.2d 1190 (2005).

5 American Federation of Labor v. National Labor Relations Board, 308 U.S. 401, 60 S. Ct. 300, 84 L. Ed. 347 (1940); Williams v. State, 952 N.E.2d 317 (Ind. Ct. App. 2011); Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578 (2000).

6 Hellum v. Breyer, 194 Cal. App. 4th 1300, 123 Cal. Rptr. 3d 803 (1st Dist. 2011), review denied, (July 20, 2011).

7 Uphoff v. Industrial Board of Ill., 271 Ill. 312, 111 N.E. 128 (1915); Chicago, M., St. P. & P. R. Co. v. Public Service Commission, 98 N.W.2d 101 (N.D. 1959).

8 Chicago, M., St. P. & P. R. Co. v. Public Service Commission, 98 N.W.2d 101 (N.D. 1959); Farmer v. Wiseman, 177 Tenn. 578, 151 S.W.2d 1085, 135 A.L.R. 1169 (1941).  
As to extending the operation of a statute to avoid hardship or oppression, see [§ 165](#).  
As to extending the operation of a statute to comport with principles of sound public policy, see [§ 168](#).

9 §§ 66, 73.

## 73 Am. Jur. 2d Statutes § 110

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 110. Restriction of statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 2473, 2474

West's Key Number Digest, [Statutes](#) 181(2)

In the construction of a statute, generally, the court may write no limitations therein.<sup>1</sup> In this regard, for example, courts cannot restrict unqualified language of a statute to a particular evil that Congress was trying to remedy.<sup>2</sup>

As variously expressed, the statute may not be restricted,<sup>3</sup> constricted,<sup>4</sup> qualified,<sup>5</sup> or narrowed.<sup>6</sup> Thus, general words are to have a general operation where the manifest intention of the legislature affords no ground for qualifying or restraining them.<sup>7</sup> The legislature will be presumed to have intended to make no limitation to a statute in which it has included by general language many subjects, persons, or entities without limitation.<sup>8</sup>

However, general terms are not necessarily to be regarded as of universal application.<sup>9</sup> In particular cases, it may appear that a statute, or section thereof, was intended to be limited, restrained, or restricted.<sup>10</sup> Thus, the precise words of a statute may be restricted where that is necessary to obviate repugnancy and inconsistency, and give effect to the manifest intention of the legislature.<sup>11</sup>

A general statute imposing restrictions does not impose them upon the government itself without a clear expression or implication to that effect.<sup>12</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

Congress often drafts statutes with hierarchical schemes—section, subsection, paragraph, and on down the line, and when Congress wants to refer only to a particular subsection or paragraph, it says so. [Cyan, Inc. v. Beaver County Employees Retirement Fund](#), 138 S. Ct. 1061 (2018).

**[END OF SUPPLEMENT]**

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**Footnotes**

- 1 Porter v. Sorell, 280 Mass. 457, 182 N.E. 837, 85 A.L.R. 1159 (1932).
- 2 Brogan v. U.S., 522 U.S. 398, 118 S. Ct. 805, 139 L. Ed. 2d 830 (1998).
- 3 Brogan v. U.S., 522 U.S. 398, 118 S. Ct. 805, 139 L. Ed. 2d 830 (1998); *In re Estate of Howell*, 373 Ill. App. 3d 342, 310 Ill. Dec. 868, 867 N.E.2d 559 (5th Dist. 2007); *Lewis Family Farm, Inc. v. Adirondack Park Agency*, 22 Misc. 3d 568, 868 N.Y.S.2d 481 (Sup 2008), aff'd, 64 A.D.3d 1009, 882 N.Y.S.2d 762 (3d Dep't 2009).
- 4 *Norwood Morris Plan Co. v. McCarthy*, 295 Mass. 597, 4 N.E.2d 450, 107 A.L.R. 1215 (1936).
- 5 *Butte Miners' Union v. City of Butte*, 58 Mont. 391, 194 P. 149, 13 A.L.R. 746 (1920).
- 6 *Payne v. Ostrus*, 50 F.2d 1039, 77 A.L.R. 531 (C.C.A. 8th Cir. 1931); *Hamilton Mfg. Co. v. City of Lowell*, 274 Mass. 477, 175 N.E. 73, 74 A.L.R. 1213 (1931).
- 7 *Portland Van & Storage Co. v. Hoss*, 139 Or. 434, 9 P.2d 122, 81 A.L.R. 1136 (1932); *Joseph Schlitz Brewing Co. v. City of Milwaukee*, 232 Wis. 118, 286 N.W. 602, 122 A.L.R. 1431 (1939).
- 8 *Cella Commission Co. v. Bohlinger*, 147 F. 419 (C.C.A. 8th Cir. 1906).
- 9 *United States v. Katz*, 271 U.S. 354, 46 S. Ct. 513, 70 L. Ed. 986 (1926); *King v. Tennessee Cent. R. Co.*, 129 Tenn. 44, 164 S.W. 1181 (1914).
- 10 *Helvering v. Hammel*, 311 U.S. 504, 61 S. Ct. 368, 85 L. Ed. 303, 131 A.L.R. 1481 (1941); *United States v. Katz*, 271 U.S. 354, 46 S. Ct. 513, 70 L. Ed. 986 (1926).
- 11 *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 25 S. Ct. 358, 49 L. Ed. 643 (1905); *Farmer v. Wiseman*, 177 Tenn. 578, 151 S.W.2d 1085, 135 A.L.R. 1169 (1941).  
As to the limitation of a statute to the objects of the act, see § 70.  
As to the subject matter of the statute as an aid of construction, see § 65.  
As to the restriction of a statute by reference to extrinsic matters, see § 64.  
As to associated words, phrases, and clauses, see §§ 125 to 127.  
As to varying expressions in other statutes, see §§ 128 to 130.  
As to the restriction of general words of a statute to avoid undesirable consequences, see §§ 162 to 169.
- 12 *U.S. v. Wittek*, 337 U.S. 346, 69 S. Ct. 1108, 93 L. Ed. 1406 (1949).

## 73 Am. Jur. 2d Statutes § 111

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 111. Deletion

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 2473, 2474

West's Key Number Digest, [Statutes](#) 181(2), 202, 203, 206

Courts, generally, in the interpretation of a statute, may not take, strike, or read anything out of a statute, or delete, subtract, or omit anything therefrom.<sup>1</sup> To the contrary, it is a cardinal rule of statutory construction that significance and effect should, if possible, be accorded to every word, phrase, sentence, and part of an act.<sup>2</sup> However, the canon requiring a court to give effect to each word "if possible" is not absolute; it is sometimes offset by the canon that permits a court to reject words as surplusage if inadvertently inserted or if repugnant to the rest of the statute.<sup>3</sup> Under this canon, a court may not generally ignore or delete words used by the legislature in a statutory provision absent a finding that the words at issue are so meaningless or clearly inconsistent with the legislative intent that they should be ignored as mere surplusage.<sup>4</sup> Words in a statute should not be construed as surplusage if there is a reasonable construction which will give them meaning.<sup>5</sup> A statute may be awkward, ungrammatical, and contain surplusage and still be fit for judicial enforcement.<sup>6</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The preference for avoiding surplusage constructions of statutes is not absolute. [King v. Burwell](#), 135 S. Ct. 2480 (2015).

Canon against surplusage is not an absolute rule. [Marx v. General Revenue Corp.](#), 133 S. Ct. 1166 (2013).

[END OF SUPPLEMENT]

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Footnotes

1 Reliable Tree Experts v. Baker, 200 Cal. App. 4th 785, 133 Cal. Rptr. 3d 186 (1st Dist. 2011); F.D.R. Sour Partnership v. Montgomery County, 407 Md. 233, 964 A.2d 650 (2009); Bergman v. Monarch Constr. Co., 124 Ohio St. 3d 534, 2010-Ohio-622, 925 N.E.2d 116 (2010); Michael v. Appalachian Heating, LLC, 226 W. Va. 394, 701 S.E.2d 116 (2010).

2 § 156.

3 Marx v. General Revenue Corp., 668 F.3d 1174 (10th Cir. 2011), petition for cert. filed (U.S. Mar. 23, 2012); In re Burrell, 399 B.R. 620 (Bankr. C.D. Ill. 2008); General Development Co., L.P. v. City of Santa Maria, 202 Cal. App. 4th 1391, 136 Cal. Rptr. 3d 490 (2d Dist. 2012).  
In interpreting a statute, independent meaning will not be given to a word where it is apparent from the context of the act that the word is surplusage. National Mining Ass'n v. Kemphorne, 512 F.3d 702 (D.C. Cir. 2008).

4 P.D. v. Department of Children and Families, 866 So. 2d 100 (Fla. Dist. Ct. App. 1st Dist. 2004).

5 A.W. Financial Services, S.A. v. Empire Resources, Inc., 981 A.2d 1114 (Del. 2009).

6 Walton v. Cornerstone Ministries Investments, Inc., 398 B.R. 77 (N.D. Ga. 2008).

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## 73 Am. Jur. 2d Statutes § 112

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 112. Correction of legislative errors

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 2474

West's Key Number Digest, [Statutes](#) 200 to 203

Generally, courts will not undertake correction of legislative mistakes in statutes notwithstanding the fact that the court may be convinced by extraneous circumstances that the legislature intended to enact something very different from that which it did enact.<sup>1</sup> However, there is authority for the rule that clerical mistakes should be disregarded<sup>2</sup> or corrected<sup>3</sup> and that manifest or obvious mistakes may be corrected.<sup>4</sup> These rules prevail where no specific provision of the statute is abrogated by the correction.<sup>5</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Supreme Court does not revise legislation just because the text as written creates an apparent anomaly as to some subject it does not address. [Michigan v. Bay Mills Indian Community, 134 S. Ct. 2024 \(2014\)](#).

Courts are permitted to correct the language of a statute if both the error and the correct result are obvious. [State v. Taylor, 2014-Ohio-2821, 15 N.E.3d 900 \(Ohio Ct. App. 2d Dist. Clark County 2014\)](#).

## [END OF SUPPLEMENT]

Footnotes

1      [Kelleher v. French](#), 22 F.2d 341 (W.D. Va. 1927), aff'd, 278 U.S. 563, 49 S. Ct. 35, 73 L. Ed. 507 (1928);  
Farmers-Kissinger Market House Co. v. City of Reading, 310 Pa. 493, 165 A. 398 (1933).  
As to the application of rules stated in this section to particular statutory terms, see §§ [146](#) to [154](#).

2      [Alcor Life Extension Foundation v. Richardson](#), 785 N.W.2d 717 (Iowa Ct. App. 2010); [State v. Knight](#), 44  
Kan. App. 2d 666, 241 P.3d 120 (2010), review denied, (Sept. 21, 2011).

3      [Lamons v. Yarbrough](#), 206 Ga. 50, 55 S.E.2d 551, 11 A.L.R.2d 717 (1949); [Roos v. Belcher](#), 79 Idaho 473,  
321 P.2d 210 (1958).

4      [Bonner v. County of San Diego](#), 139 Cal. App. 4th 1336, 44 Cal. Rptr. 3d 116 (4th Dist. 2006), as modified on  
denial of reh'g, (June 26, 2006); [People v. Howard](#), 233 Ill. 2d 213, 330 Ill. Dec. 702, 909 N.E.2d 724 (2009).

5      [State ex rel. Griffin v. Greene](#), 104 Mont. 460, 67 P.2d 995, 111 A.L.R. 770 (1937).

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## 73 Am. Jur. 2d Statutes § 113

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 113. Correction of legislative errors—References to particular instruments

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 200 to 203

In the case of a mistake in a reference in a statute to another statute, to a constitutional provision, or to a public document, record, or the like, where the real intent of the legislature is manifest and would be defeated by an adherence to the terms of the mistaken reference, the mistaken reference will be regarded as surplusage, or will be read as corrected, in order to give effect to the legislative intent.<sup>1</sup> It sometimes happens that a reference in a statute to another statute is rendered correct, or the legislative intent is made clear, by the elimination of a part of the reference; in such case, the erroneous part is entirely disregarded.<sup>2</sup>

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### Footnotes

<sup>1</sup> [Tatlow v. Bacon](#), 101 Kan. 26, 165 P. 835, 14 A.L.R. 269 (1917); [Worthington v. District Court of Second Judicial Dist. in and for Washoe County](#), 37 Nev. 212, 142 P. 230 (1914).

<sup>2</sup> [People v. Penman](#), 271 Ill. 82, 110 N.E. 894 (1915); [McLendon v. City of Columbia](#), 101 S.C. 48, 85 S.E. 234, 5 A.L.R. 990 (1915) (overruled in part on other grounds by, [Chewning v. Clarendon County](#), 168 S.C. 351, 167 S.E. 555 (1933)).

## 73 Am. Jur. 2d Statutes § 114

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 2. Adherence to or Departure from Statute as Enacted

## § 114. Supplying legislative omissions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 200, 203

Generally, courts may not, by construction, insert words or phrases in a statute.<sup>1</sup> In this regard, it has been said that the United States Supreme Court has a duty to refrain from reading a phrase into a federal statute when Congress has left the phrase out<sup>2</sup> and that courts ordinarily resists reading words or elements into a statute that do not appear on its face<sup>3</sup> nor may a court supply a *casus omissus*<sup>4</sup> by giving force and effect to the language of the statute when applied to a subject about which nothing whatever is said and which, to all appearances, was not in the minds of the legislature at the time of the enactment of the law.<sup>5</sup> Under such circumstances, new provisions or ideas may not be interpolated in a statute or ingrafted thereon.<sup>6</sup> In this respect, it is not the office of the court to insert in a statute that which has been omitted<sup>7</sup> and that what the legislature omits, the courts cannot supply.<sup>8</sup> Thus, a court is not authorized to insert qualifying provisions not included in the statute and may not rewrite a statute to conform to an assumed intention that does not appear from its language.<sup>9</sup> These rules have been regarded as applicable to an unintentional omission.<sup>10</sup>

Words and phrases may, however, be supplied by the court and inserted in a statute where it is necessary to prevent an act from being absurd,<sup>11</sup> to obviate repugnancy and inconsistency in the statute, complete the sense thereof, and give effect to the intention of the legislature manifested therein.<sup>12</sup> This rule prevails where words have been omitted from a statute through clerical error<sup>13</sup> or by accident<sup>14</sup> or inadvertence.<sup>15</sup> The rule is especially applicable where such application is necessary to prevent the law from becoming a nullity.<sup>16</sup>

Courts proceed with great caution in supplying alleged omissions in statutes.<sup>17</sup> They will supply an omission only where such omission is palpable, and the omitted words are plainly indicated by the context<sup>18</sup> or verifiable from other parts of the statute.<sup>19</sup>

**Observation:**

Where Congress includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that Congress acted intentionally and purposely in the disparate inclusion or exclusion.<sup>20</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

It is a fundamental principle of statutory interpretation that absent provisions cannot be supplied by the courts. [Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania](#), 140 S. Ct. 2367 (2020).

A court may not narrow a federal statutory provision's reach by inserting words Congress chose to omit. [Lomax v. Ortiz-Marquez](#), 140 S. Ct. 1721 (2020).

In any field of statutory interpretation, it is the duty of the Supreme Court to respect not only what Congress wrote but, as importantly, what it did not write. (Per Justice Gorsuch, with two Justices concurring and three Justices concurring in the judgment.) [Virginia Uranium, Inc. v. Warren](#), 139 S. Ct. 1894 (2019).

In any inquiry respecting the likely or probable intent of Congress, the silence of Congress is relevant. [Ziglar v. Abbasi](#), 137 S. Ct. 1843 (2017).

To supply statutory omissions transcends the judicial function. [Nichols v. U.S.](#), 136 S. Ct. 1113 (2016).

The court may not add words to the law to produce what is thought to be a desirable result. [Kidd v. Thomson Reuters Corporation](#), 925 F.3d 99 (2d Cir. 2019).

A statute should not be read to implicitly include language specifically rejected by Congress. [Dai Global v. Administrator of the United States Agency for International Development](#), 945 F.3d 1196 (Fed. Cir. 2019).

The canon "casus omissus pro omissio habendus est" means that a case omitted is to be held as intentionally omitted. [State v. I.C.S.](#), 145 So. 3d 350 (La. 2014).

When a statute is completely silent on a contested issue, courts do not look beyond the statutory text to discern its meaning unless there is an ambiguity of expression, rather than a failure of expression. M.S.A. § 645.16. [State Farm Mut. Auto. Ins. Co. v. Lennartson](#), 2015 WL 8954506 (Minn. 2015).

Courts cannot supply in a statute that which the legislature purposely omits or inadvertently overlooks. [State v. Anderson](#), 865 N.W.2d 712 (Minn. Ct. App. 2015).

In interpreting a statute, courts will not presume that the legislature intended a result different from what is indicated by the plain language or add a qualification to a statute that the Legislature chose to omit. [State v. Roman-Rosado](#), 462 N.J. Super. 183, 225 A.3d 544 (App. Div. 2020).

Supreme Court may not supply omissions in a statute, especially where it appears that the matter may have been intentionally omitted. [Com. v. Mazzetti](#), 44 A.3d 58 (Pa. 2012).

A court will not insert language into a statute that the legislature omitted. [City of Casper v. Holloway](#), 2015 WY 93, 354 P.3d 65 (Wyo. 2015).

A basic tenet of statutory construction is that omission of words from a statute is considered to be an intentional act by the legislature, and the Supreme Court will not read words into a statute when the legislature has chosen not to include them. [Stroth v. North Lincoln County Hosp. Dist.](#), 2014 WY 81, 327 P.3d 121 (Wyo. 2014).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Keene Corp. v. U.S., 508 U.S. 200, 113 S. Ct. 2035, 124 L. Ed. 2d 118 (1993); U.S. v. Sturm, 2012 WL 834824 (10th Cir. 2012); Boulder County Bd. of Com'rs v. HealthSouth Corp., 246 P.3d 948 (Colo. 2011); State v. Singleton, 292 Conn. 734, 974 A.2d 679 (2009); Williams v. State, 200 Md. App. 73, 24 A.3d 210 (2011), cert. denied, 423 Md. 453, 31 A.3d 921 (2011) and cert. denied, 423 Md. 453, 31 A.3d 921 (2011); State v. Carufel, 783 N.W.2d 539 (Minn. 2010); First Mount Vernon Indus. Loan Ass'n v. ProDev XXII, LLC, 703 S.E.2d 836 (N.C. Ct. App. 2011); City of Deadwood v. M.R. Gustafson Family Trust, 2010 SD 5, 777 N.W.2d 628 (S.D. 2010); Coleman v. State, 341 S.W.3d 221 (Tenn. 2011).  
As to the history of a statute as a justification for the interpolation of new terms in a statute, see § 83.
- 2 Keene Corp. v. U.S., 508 U.S. 200, 113 S. Ct. 2035, 124 L. Ed. 2d 118 (1993).
- 3 Dean v. U.S., 556 U.S. 568, 129 S. Ct. 1849, 173 L. Ed. 2d 785 (2009); Bates v. U.S., 522 U.S. 23, 118 S. Ct. 285, 139 L. Ed. 2d 215, 121 Ed. Law Rep. 483 (1997).
- 4 Rice v. Denny Roll & Panel Co., 199 N.C. 154, 154 S.E. 69 (1930); State ex rel. Reynolds v. Smith, 22 Wis. 2d 516, 126 N.W.2d 215 (1964).
- 5 Chandler v. Peninsula Light & Power Co., 152 Va. 903, 147 S.E. 249 (1929).
- 6 U.S. v. Cooper Corporation, 312 U.S. 600, 61 S. Ct. 742, 85 L. Ed. 1071 (1941); Coon v. Doss, 361 Ill. 515, 198 N.E. 341, 102 A.L.R. 561 (1935); Consumer Advocate for State v. South Carolina Dept. of Ins., 2012 WL 555745 (S.C. Ct. App. 2012).
- 7 U.S. v. Monia, 317 U.S. 424, 63 S. Ct. 409, 87 L. Ed. 376 (1943); Nordling v. Ford Motor Co., 231 Minn. 68, 42 N.W.2d 576, 28 A.L.R.2d 272 (1950); Cabell v. City of Cottage Grove, 170 Or. 256, 130 P.2d 1013, 144 A.L.R. 286 (1942).
- 8 Iselin v. U.S., 270 U.S. 245, 46 S. Ct. 248, 70 L. Ed. 566 (1926); Com. v. Russ R., 433 Mass. 515, 744 N.E.2d 39 (2001).
- 9 Stop Youth Addiction, Inc. v. Lucky Stores, Inc., 17 Cal. 4th 553, 71 Cal. Rptr. 2d 731, 950 P.2d 1086 (1998).
- 10 Daveiga v. Boston Public Health Com'n, 449 Mass. 434, 869 N.E.2d 586 (2007); Rohmiller v. Hart, 2012 WL 638028 (Minn. 2012); Texas Lottery Com'n v. First State Bank of DeQueen, 325 S.W.3d 628 (Tex. 2010).
- 11 Moruzzi v. Federal Life & Casualty Co., 42 N.M. 35, 75 P.2d 320, 115 A.L.R. 407 (1938).
- 12 Ameruso v. City of New York, 141 Misc. 2d 389, 532 N.Y.S.2d 992 (Sup 1988); Anthis v. Copland, 270 P.3d 574 (Wash. 2012).

13           Armstrong v. City of Edgewater, 157 So. 2d 422 (Fla. 1963); Fort Hays State University Chapter, American Assoc. of University Professors, 290 Kan. 446, 228 P.3d 403, 255 Ed. Law Rep. 975 (2010).

14           McCullen v. State ex rel. Alexander for Use of Hinds County, 217 Miss. 256, 63 So. 2d 856 (1953).

15           Armstrong v. City of Edgewater, 157 So. 2d 422 (Fla. 1963); Ameruso v. City of New York, 141 Misc. 2d 389, 532 N.Y.S.2d 992 (Sup 1988).

16           McCullen v. State ex rel. Alexander for Use of Hinds County, 217 Miss. 256, 63 So. 2d 856 (1953); Board of Regents v. Gillette, 149 Neb. 56, 30 N.W.2d 296 (1947).

17           Trader v. Jester, 40 Del. 66, 1 A.2d 609 (Super. Ct. 1938); Bench Canal Co. v. Sullivan, 39 Wyo. 345, 271 P. 221 (1928).

18           Elizabeth Arden Sales Corp. v. Gus Blass Co., 150 F.2d 988, 161 A.L.R. 370 (C.C.A. 8th Cir. 1945); Moruzzi v. Federal Life & Casualty Co., 42 N.M. 35, 75 P.2d 320, 115 A.L.R. 407 (1938).

19           Trader v. Jester, 40 Del. 66, 1 A.2d 609 (Super. Ct. 1938); Moruzzi v. Federal Life & Casualty Co., 42 N.M. 35, 75 P.2d 320, 115 A.L.R. 407 (1938).

20           Bates v. U.S., 522 U.S. 23, 118 S. Ct. 285, 139 L. Ed. 2d 215, 121 Ed. Law Rep. 483 (1997).

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## 73 Am. Jur. 2d Statutes § 115

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 3. Adherence to or Departure from Plain, Ordinary, or Literal Meaning of Terms

## § 115. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188, 189

In determining the meaning of a statute, a court generally looks to its words and gives them their usual and ordinary meaning.<sup>1</sup> Thus, the general rule of construction prefers the ordinary meanings of statutory terms,<sup>2</sup> and if the words chosen by the legislature are clear and unambiguous within the context of the statute in question, they are to be given their plain and ordinary meanings.<sup>3</sup> Furthermore, it has been said that, absent an indication to the contrary, words in a statute are assumed to bear their ordinary, contemporary, common meaning.<sup>4</sup>

The Supreme Court assumes that the ordinary meaning of the language chosen by Congress accurately expresses the legislative purpose.<sup>5</sup> When interpreting statutory provisions, the Supreme Court begins by looking at the terms of the provisions and the commonsense conception of those terms.<sup>6</sup> Courts should thus be slow to impart any other than their commonly understood meaning to terms employed in the enactment of a statute, and it is the policy of the courts to avoid giving statutory phraseology a new,<sup>7</sup> curious or peculiar,<sup>8</sup> distorted,<sup>9</sup> hidden,<sup>10</sup> unusual,<sup>11</sup> unnatural,<sup>12</sup> strained or forced,<sup>13</sup> artificial,<sup>14</sup> refined,<sup>15</sup> metaphysical,<sup>16</sup> or subtle meaning.<sup>17</sup>

Congress' words are presumed to have their ordinary meaning and definition when it uses well-settled terminology of criminal law.<sup>18</sup>

The rule is that statutory words are to be given their natural,<sup>19</sup> received,<sup>20</sup> popular,<sup>21</sup> everyday,<sup>22</sup> approved,<sup>23</sup> and recognized<sup>24</sup> meaning. The intention of the legislature to use statutory phraseology in such manner is presumed.<sup>25</sup>

The rule in favor of the construction of statutory terminology in accordance with the commonly accepted meaning prevails where the words have not acquired a technical<sup>26</sup> or special legal meaning<sup>27</sup> and where there is no reason for a contrary construction;<sup>28</sup> that is, it prevails where a different meaning is not apparent or obvious, or definitely indicated,<sup>29</sup> or required by the context.<sup>30</sup>

**Observation:**

The Uniform Statute and Rule Construction Act (U.S.R.C.A.) provides that unless a word or phrase is defined in the statute or rule being construed, its meaning is determined by its context, the rules of grammar, and common usage; a word or phrase that has acquired a technical or particular meaning in a particular context has that meaning if it is used in that context.<sup>31</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

Without a statutory definition for a statutory phrase, the Supreme Court turns to the phrase's plain meaning at the time of enactment. [Tanzin v. Tanvir](#), 141 S. Ct. 486 (2020).

Courts normally interpret a federal statute in accord with the ordinary public meaning of its terms at the time of its enactment, because only the words on the page constitute the law adopted by Congress and approved by the President, and if judges could add to, remodel, update, or detract from old statutory terms inspired only by extratextual sources and their own imaginations, they would risk amending statutes outside the legislative process reserved for the people's representatives, and would deny the people the right to continue relying on the original meaning of the law they have counted on to settle their rights and obligations. [Bostock v. Clayton County, Georgia](#), 140 S. Ct. 1731 (2020).

When interpreting a statutory term, the court's job is to interpret the words consistent with their ordinary meaning at the time Congress enacted the statute. [Wisconsin Central Ltd. v. U.S.](#), 138 S. Ct. 2067 (2018).

A statute's meaning does not always turn solely on the broadest imaginable definitions of its component words. [Epic Systems Corp. v. Lewis](#), 138 S. Ct. 1612 (2018).

When a statutory term is not defined in the statute, courts give the term its ordinary meaning. [Encino Motorcars, LLC v. Navarro](#), 138 S. Ct. 1134 (2018).

The Supreme Court has no license to disregard clear language based on an intuition that Congress must have intended something broader. [Cyan, Inc. v. Beaver County Employees Retirement Fund](#), 138 S. Ct. 1061 (2018).

In determining the meaning of a statutory provision, the court looks first to its language, giving the words used their ordinary meaning. [Artis v. District of Columbia](#), 138 S. Ct. 594 (2018).

Statutory interpretation begins with the text. [Ross v. Blake](#), 136 S. Ct. 1850 (2016).

In interpreting a statutory phrase, the court looks to the ordinary meaning of the words in question at the time Congress added the phrase to the statute. [Baker Botts L.L.P. v. ASARCO LLC](#), 135 S. Ct. 2158 (2015).

In determining the meaning of a statutory provision, courts look first to its language, giving the words used their ordinary meaning. [Lawson v. FMR LLC](#), 134 S. Ct. 1158 (2014).

It is a fundamental canon of statutory construction that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning. [Sandifer v. U.S. Steel Corp.](#), 134 S. Ct. 870 (2014).

In determining the meaning of a statute, courts look first to its language, giving the words used their ordinary meaning. [Levin v. U.S.](#), 133 S. Ct. 1224 (2013).

Courts assume that the ordinary meaning of statutory language accurately expresses the legislative purpose. [Marx v. General Revenue Corp.](#), 133 S. Ct. 1166 (2013).

Court interpreting a statute begins with the statute's actual words, the most reliable indicator of legislative intent, assigning them their usual and ordinary meanings, and construing them in context. [Even Zohar Const. & Remodeling, Inc. v. Bellaire Townhouses, LLC](#), 61 Cal. 4th 830, 189 Cal. Rptr. 3d 824, 352 P.3d 391 (2015).

If a term in a statute is one of common usage and is readily understood, a court should presume that a reasonable person of average intelligence can understand it. [In re J.B.](#), 2015 MT 342, 362 P.3d 859 (Mont. 2015).

When engaging in statutory interpretation, where the legislature has not defined a particular term, the court assumes that the legislature intended to give words of common usage their plain, natural, and ordinary meaning. [State v. Clemente-Perez](#), 357 Or. 745, 359 P.3d 232 (2015).

When the statutory language is clear and unambiguous, Supreme Court gives the words their plain and ordinary meaning; however, the plain meaning approach is not the equivalent of myopic literalism, and it is entirely proper for Court to look to the sense and meaning fairly deducible from the context. [State v. Wray](#), 101 A.3d 884 (R.I. 2014).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Roberts v. Sea-Land Services, Inc.](#), 132 S. Ct. 1350 (2012); [Hamilton v. Lanning](#), 130 S. Ct. 2464, 177 L. Ed. 2d 23 (2010); [BP America Production Co. v. Burton](#), 549 U.S. 84, 127 S. Ct. 638, 166 L. Ed. 2d 494 (2006); [Broughman v. Carver](#), 624 F.3d 670 (4th Cir. 2010), cert. denied, 131 S. Ct. 2969, 180 L. Ed. 2d 246 (2011); [Doe v. State](#), 12 Fulton County D. Rep. 748, 2012 WL 685853 (Ga. 2012); [In re Blizzard](#), 2012 WL 752903 (N.H. 2012).
- 2 [Schindler Elevator Corp. v. U.S. ex rel. Kirk](#), 131 S. Ct. 1885, 179 L. Ed. 2d 825 (2011); [National R.R. Passenger Corp. v. Morgan](#), 536 U.S. 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002).
- 3 [G.C. Wallace, Inc. v. Eighth Judicial Dist. Court of State, ex rel. County of Clark](#), 262 P.3d 1135, 127 Nev. Adv. Op. No. 64 (Nev. 2011); [Anderson v. State](#), 2012 WL 851040 (Fla. 2012); [Arambarri v. Armstrong](#), 2012 WL 739486 (Idaho 2012); [State v. King](#), 2012 WL 753119 (Kan. 2012).
- 4 [Walters v. Metropolitan Educational Enterprises, Inc.](#), 519 U.S. 202, 117 S. Ct. 660, 136 L. Ed. 2d 644 (1997); [Capato ex rel. B.N.C. v. Commissioner of Social Sec.](#), 631 F.3d 626 (3d Cir. 2011), cert. granted, 132 S. Ct. 576, 181 L. Ed. 2d 419 (2011); [Preston v. Leake](#), 743 F. Supp. 2d 501 (E.D. N.C. 2010), aff'd, 660 F.3d 726 (4th Cir. 2011).

5 Microsoft Corp. v. i4i Ltd. Partnership, 131 S. Ct. 2238, 180 L. Ed. 2d 131 (2011); Hardt v. Reliance Standard  
Life Ins. Co., 130 S. Ct. 2149, 176 L. Ed. 2d 998 (2010).  
6 Carachuri-Rosendo v. Holder, 130 S. Ct. 2577, 177 L. Ed. 2d 68 (2010).  
7 In re Watkins' Estate, 75 So. 2d 194, 45 A.L.R.2d 1360 (Fla. 1954).  
8 Payne v. Ostrus, 50 F.2d 1039, 77 A.L.R. 531 (C.C.A. 8th Cir. 1931); Finger Lakes Racing Ass'n, Inc. v. New  
York State Racing & Wagering Bd., 45 N.Y.2d 471, 410 N.Y.S.2d 268, 382 N.E.2d 1131 (1978); Melanson  
v. Com., 261 Va. 178, 539 S.E.2d 433 (2001).  
9 Hightower v. Detroit Edison Co., 262 Mich. 1, 247 N.W. 97, 86 A.L.R. 509 (1933).  
10 Payne v. Ostrus, 50 F.2d 1039, 77 A.L.R. 531 (C.C.A. 8th Cir. 1931); Carroll v. Ragsdale, 192 Ga. 118, 15  
S.E.2d 210 (1941).  
11 Victory Cab Co. v. City of Charlotte, 234 N.C. 572, 68 S.E.2d 433 (1951); Industrial Commission of Ohio  
v. Roth, 98 Ohio St. 34, 120 N.E. 172, 6 A.L.R. 1463 (1918).  
12 Virginian Ry. Co. v. System Federation No. 40, 300 U.S. 515, 57 S. Ct. 592, 81 L. Ed. 789 (1937); Standard  
Oil Co. v. Lane, 75 Wis. 636, 44 N.W. 644 (1890).  
13 Mid-Atlantic Power Supply Ass'n v. Public Service Com'n of Maryland, 361 Md. 196, 760 A.2d 1087 (2000);  
Anderson v. Baptist Medical Center, 343 S.C. 487, 541 S.E.2d 526 (2001); State v. Garrison, 40 S.W.3d  
426 (Tenn. 2000).  
14 Victory Cab Co. v. City of Charlotte, 234 N.C. 572, 68 S.E.2d 433 (1951).  
15 Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813 (1942).  
16 Coca-Cola Bottling Co. v. Kincannon, 202 Ark. 235, 150 S.W.2d 193, 134 A.L.R. 747 (1941).  
17 Anderson v. Baptist Medical Center, 343 S.C. 487, 541 S.E.2d 526 (2001); State v. Garrison, 40 S.W.3d  
426 (Tenn. 2000).  
18 Salinas v. U.S., 522 U.S. 52, 118 S. Ct. 469, 139 L. Ed. 2d 352 (1997).  
19 U.S. v. Alvarez-Sanchez, 511 U.S. 350, 114 S. Ct. 1599, 128 L. Ed. 2d 319 (1994); Ex parte Sacred Heart  
Health System, Inc., 2012 WL 677549 (Ala. 2012); Fappiano v. New York City Police Dept., 95 N.Y.2d  
738, 724 N.Y.S.2d 685, 747 N.E.2d 1286 (2001).  
20 Deputy v. du Pont, 308 U.S. 488, 60 S. Ct. 363, 84 L. Ed. 416 (1940); State ex rel. Mays v. Brown, 71 W.  
Va. 519, 77 S.E. 243 (1912).  
21 Deputy v. du Pont, 308 U.S. 488, 60 S. Ct. 363, 84 L. Ed. 416 (1940); Bailey v. Illinois Liquor Control  
Com'n, 405 Ill. App. 3d 550, 345 Ill. Dec. 190, 938 N.E.2d 629, 262 Ed. Law Rep. 596 (1st Dist. 2010);  
State v. Spurgin, 261 Neb. 427, 623 N.W.2d 644 (2001).  
22 Crane v. C.I.R., 331 U.S. 1, 67 S. Ct. 1047, 91 L. Ed. 1301 (1947); In re Overland Park Financial Corp.,  
236 F.3d 1246 (10th Cir. 2001).  
23 Ex parte De La O, 59 Cal. 2d 128, 28 Cal. Rptr. 489, 378 P.2d 793, 98 A.L.R.2d 705 (1963); Evans v. Kroh,  
284 S.W.2d 329, 58 A.L.R.2d 1446 (Ky. 1955).  
24 U.S. v. Stewart, 311 U.S. 60, 61 S. Ct. 102, 85 L. Ed. 40 (1940); Victory Cab Co. v. City of Charlotte, 234  
N.C. 572, 68 S.E.2d 433 (1951).  
25 U.S. v. Stewart, 311 U.S. 60, 61 S. Ct. 102, 85 L. Ed. 40 (1940); Parkinson v. State Bank of Millard County,  
84 Utah 278, 35 P.2d 814, 94 A.L.R. 1112 (1934).  
26 State Tax Commission v. Allied Mortg. Cos., 175 Md. 357, 2 A.2d 399, 119 A.L.R. 585 (1938); Weber v.  
Town of Saukville, 209 Wis. 2d 214, 562 N.W.2d 412 (1997).  
As to the interpretation of words of a technical meaning, see § 142.  
27 Bradley v. U.S., 410 U.S. 605, 93 S. Ct. 1151, 35 L. Ed. 2d 528 (1973); Cote v. Bachelder-Worcester Co.,  
85 N.H. 444, 160 A. 101, 82 A.L.R. 1239 (1932).  
As to the interpretation of words of a special legal meaning, see § 143.  
28 Old Colony Trust Co. v. Commissioner of Internal Revenue, 301 U.S. 379, 57 S. Ct. 813, 81 L. Ed. 1169  
(1937); Florida Nat. Bank of Jacksonville v. Simpson, 59 So. 2d 751, 33 A.L.R.2d 581 (Fla. 1952).  
29 Avery v. Commissioner of Internal Revenue, 292 U.S. 210, 54 S. Ct. 674, 78 L. Ed. 1216 (1934); Wheeler  
v. O'Connell, 297 Mass. 549, 9 N.E.2d 544, 111 A.L.R. 1038 (1937).  
30 Johnson v. U.S., 529 U.S. 694, 120 S. Ct. 1795, 146 L. Ed. 2d 727 (2000); Myers v. Denver & R. G. R. Co.,  
61 Colo. 302, 157 P. 196 (1916); Commonwealth v. Minnich, 250 Pa. 363, 95 A. 565 (1915).  
31 Unif. Statute and Rule Construction Act § 2.

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## 73 Am. Jur. 2d Statutes § 116

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 3. Adherence to or Departure from Plain, Ordinary, or Literal Meaning of Terms

## § 116. Departure from commonly accepted or literal meaning

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188, 189

In construing a statute, the uncommon sense of a term may be relied on when the ordinary meaning fails to fit the text and when the realization of clear congressional policy is in tension with the result that customary interpretive rules would deliver.<sup>1</sup> Where it is evident that some other meaning was intended,<sup>2</sup> and the application of the commonly accepted meaning would operate to defeat the purpose of the statute<sup>3</sup> and the intent of the legislature,<sup>4</sup> a departure from the usual or natural meaning of the words in a statute may be deemed proper. Indeed, it is an old and well-established maxim that words ought to be more subservient to the intent and not the intent to the words.<sup>5</sup> Moreover, it is a general rule that the manifest intent of the legislature will prevail over the literal import of the words.<sup>6</sup> The plain meaning rule of statutory construction does not prohibit a court from determining whether the literal meaning of a measure comports with its purpose or whether such a construction of one provision is consistent with other provisions of the statute.<sup>7</sup> However, the literal meaning of the statute prevails unless such a construction would produce unreasonable or absurd consequences not contemplated by the legislature.<sup>8</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Because a law's ordinary meaning at the time of enactment usually governs, courts must be sensitive to the possibility that a statutory term that means one thing today or in one context might have meant something else at the time of its adoption or might mean something different in another context, and courts must be attuned to the possibility that a statutory phrase ordinarily

bears a different meaning than the terms do when viewed individually or literally. [Bostock v. Clayton County, Georgia](#), 140 S. Ct. 1731 (2020).

If policy considerations suggest that the current scheme of a federal statute should be altered, Congress must be the one to do it. [Intel Corporation Investment Policy Committee v. Sulyma](#), 140 S. Ct. 768 (2020).

The Court cannot construe a statute in a way that negates its plain text. [Honeycutt v. U.S.](#), 137 S. Ct. 1626 (2017).

Plain meaning of statute should be conclusive except when literal application of statute will produce a result demonstrably at odds with intentions of its drafters. [In re Harris](#), 522 B.R. 804 (Bankr. E.D. N.C. 2014).

When interpreting a statute, courts are not limited to the words of the statute as they are printed in the Annotated Code; rather, the circumstances of the enactment of particular legislation may persuade a court that the legislature did not intend words of common meaning to have this literal effect, and this process allows courts to discern that construction which avoids an illogical or unreasonable result, or one which is inconsistent with common sense. [Patton v. Wells Fargo Financial Maryland, Inc.](#), 437 Md. 83, 85 A.3d 167 (2014).

To override the plain language of a statute under the absurdity doctrine, the operation of the plain language must be more than improvident; it must be so overwhelmingly absurd that no rational legislator could have intended the statute to operate in such a manner. (Per opinion concurring in part of Durrant, C.J., for a majority of the court.) [Utley v. Mill Man Steel, Inc.](#), 2015 UT 75, 357 P.3d 992 (Utah 2015).

## [END OF SUPPLEMENT]

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### Footnotes

- 1      [Johnson v. U.S.](#), 529 U.S. 694, 120 S. Ct. 1795, 146 L. Ed. 2d 727 (2000).  
For purposes of statutory interpretation, Congress has the power to give words unorthodox meanings. [Carachuri-Rosendo v. Holder](#), 130 S. Ct. 2577, 177 L. Ed. 2d 68 (2010).
- 2      [Watt v. Alaska](#), 451 U.S. 259, 101 S. Ct. 1673, 68 L. Ed. 2d 80 (1981); [People ex rel. Carson v. Muldoon](#), 306 Ill. 234, 137 N.E. 863, 28 A.L.R. 857 (1922).
- 3      § 73.
- 4      [Helvering v. Hammel](#), 311 U.S. 504, 61 S. Ct. 368, 85 L. Ed. 303, 131 A.L.R. 1481 (1941); [Deason v. Florida Dept. of Corrections](#), 705 So. 2d 1374 (Fla. 1998).  
As to a departure from the natural meaning of the words of a statute in order to avoid an absurd result, see § 163.
- 5      [Abood v. Hospital Ambulance Service, Inc.](#), 30 N.Y.2d 295, 332 N.Y.S.2d 877, 283 N.E.2d 754 (1972); [Samuelson v. State](#), 116 Tenn. 470, 95 S.W. 1012 (1906).
- 6      [Minnesota Min. & Mfg. Co. v. New Jersey Wood Finishing Co.](#), 381 U.S. 311, 85 S. Ct. 1473, 14 L. Ed. 2d 405 (1965); [Board of Adjustment of Sussex County v. Verleysen](#), 36 A.3d 326 (Del. 2012); [Naumann v. Iowa Property Assessment Appeal Bd.](#), 791 N.W.2d 258 (Iowa 2010); [Agilus Health v. Accor Lodging North America](#), 52 So. 3d 68 (La. 2010); [Martensen v. Rejda Bros., Inc.](#), 283 Neb. 279, 808 N.W.2d 855 (2012).
- 7      [People v. Cardwell](#), 203 Cal. App. 4th 876, 137 Cal. Rptr. 3d 525 (4th Dist. 2012).
- 8      [Bituminous Ins. Co. v. Coker](#), 12 Fulton County D. Rep. 472, 2012 WL 400018 (Ga. Ct. App. 2012); [Hines v. Com.](#), 59 Va. App. 567, 721 S.E.2d 792 (2012); [In re Detention of Jones](#), 149 Wash. App. 16, 201 P.3d 1066 (Div. 1 2009).

## 73 Am. Jur. 2d Statutes § 117

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 3. Adherence to or Departure from Plain, Ordinary, or Literal Meaning of Terms

## § 117. Departure from commonly accepted or literal meaning—Limitations

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188, 189

There is a *prima facie* preference in favor of the literal meaning of the words of a statute,<sup>1</sup> and the general rule requires an adherence to the letter thereof.<sup>2</sup> The language of a statute is to be construed literally where there is no reason why it should not be so interpreted.<sup>3</sup> Accordingly, any construction which contradicts the letter of a statute should be carefully scrutinized and applied with caution and circumspection.<sup>4</sup> The letter of a statute must not be unreasonably violated; it is to be sacrificed only so far as is necessary to give effect to the legislative intent.<sup>5</sup> The rule permitting departure from the literal meaning has no application at all where the statute is unambiguous<sup>6</sup> and embodies a definite meaning.<sup>7</sup> The general rules against a departure from the ordinary<sup>8</sup> or literal meaning of the words of a statute have been regarded as applicable where such adherence to the ordinary or literal meaning leads to a reasonable, and not to an unreasonable or absurd, result.<sup>9</sup> However, some authority holds that a statute is not to be given an arbitrary construction, according to the strict letter, but rather, one that will advance the sense and meaning fairly deducible from the context; the reason of the statute prevails over the literal sense of its terms.<sup>10</sup>

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### Footnotes

<sup>1</sup> [New York Life Ins. Co. v. Guaranty Corporation](#), 321 Pa. 359, 184 A. 31 (1936).

<sup>2</sup> [Crooks v. Harrelson](#), 282 U.S. 55, 51 S. Ct. 49, 75 L. Ed. 156 (1930).

<sup>3</sup> [J. B. Preston Co. v. Funkhouser](#), 261 N.Y. 140, 184 N.E. 737, 87 A.L.R. 459 (1933), judgment aff'd, 290 U.S. 163, 54 S. Ct. 134, 78 L. Ed. 243 (1933); [International Harvester Co. v. Industrial Commission of Wisconsin](#), 157 Wis. 167, 147 N.W. 53 (1914).

4                   Crooks v. Harrelson, 282 U.S. 55, 51 S. Ct. 49, 75 L. Ed. 156 (1930); State ex rel. Associated Indem. Corp.  
v. Mortensen, 224 Wis. 398, 272 N.W. 457, 110 A.L.R. 524 (1937).

5                   Wunderle v. Wunderle, 144 Ill. 40, 33 N.E. 195 (1893); Kitchen v. Southern Ry., 68 S.C. 554, 48 S.E. 4  
(1904).

6                   Helvering v. New York Trust Co., 292 U.S. 455, 54 S. Ct. 806, 78 L. Ed. 1361 (1934); Singh v. Superior  
Court, 140 Cal. App. 4th 387, 44 Cal. Rptr. 3d 348 (2d Dist. 2006).

7                   Oppegard v. Board of Com'rs of Renville County (State Report Title: Oppegaard v. Board of Com'rs of  
Renville County), 120 Minn. 443, 139 N.W. 949 (1913); Brazos River Authority v. City of Graham, 163  
Tex. 167, 354 S.W.2d 99 (1961).

8                   § 115.

9                   Oppegard v. Board of Com'rs of Renville County (State Report Title: Oppegaard v. Board of Com'rs of  
Renville County), 120 Minn. 443, 139 N.W. 949 (1913).

As to an ambiguity in a statute arising from the unreasonable or absurd consequences of a literal  
interpretation of a statute, see § 105.

10                  In re Casaleggio, 420 N.J. Super. 121, 18 A.3d 1082 (App. Div. 2011); State v. Martin, 2011 ND 6, 793  
N.W.2d 188 (N.D. 2011).

## 73 Am. Jur. 2d Statutes § 118

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 4. General Presumptions, Implications, and Inferences

## § 118. Implications or inferences, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 181(1), 185, 188

In the interpretation of statutes, some degree of implication or inference may be called on to aid the discovery of the intention of the legislature as expressed in the statute under consideration.<sup>1</sup> In this regard, that which is clearly implied from the express terms of a statute is as much a part thereof and is as effectual as that which is expressed.<sup>2</sup> Under this rule, an act which is contrary to the plain implication of a statute is unlawful although neither expressly forbidden nor authorized.<sup>3</sup> Similarly, where a statute grants a right or imposes a duty, it also confers by implication every particular power and every reasonable means necessary for the exercise of the one<sup>4</sup> or the performance of the other.<sup>5</sup>

The legislature is presumed to know existing law at the time it enacts a statute.<sup>6</sup> Where new legislation is passed but old legislation is retained, continuity of legislative purpose is inferred.<sup>7</sup> Moreover, Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change.<sup>8</sup>

An unnecessary implication arising from one statutory section, inconsistent with the express terms of another on the same subject, yields to the expressed intent.<sup>9</sup> Each word, phrase, or expression in a statute must be read as if it were deliberately chosen, and the court will presume that words excluded from a provision were excluded purposefully.<sup>10</sup>

For purposes of statutory construction, legislative silence, when it has authority to speak, may be considered as giving rise to an implication of legislative intent.<sup>11</sup>

If a statute is amenable to two conflicting interpretations, then courts are compelled to impute to the statute that meaning which comports with the objective that the legislature sought to achieve.<sup>12</sup>

A statutory presumption that the term "person" includes corporations is not irrebuttable, and it can be overcome where the legislative history of the statute under consideration shows that the normal rule of construction would run contrary to the statutory intent.<sup>13</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Silence in legislative history of statute, no matter how "clanging," cannot defeat the better reading of the text and statutory context. [Encino Motorcars, LLC v. Navarro](#), 138 S. Ct. 1134 (2018).

Just as Congress' choice of words in a statute is presumed to be deliberate, so too are its structural choices. [University of Texas Southwestern Medical Center v. Nassar](#), 133 S. Ct. 2517 (2013).

## [END OF SUPPLEMENT]

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### Footnotes

- 1      Mercantile Trust Co. of St. Louis, Mo., v. Wilmot Road Dist., 275 U.S. 117, 48 S. Ct. 61, 72 L. Ed. 192 (1927); [State v. Hickman](#), 146 Idaho 178, 191 P.3d 1098 (2008); [Lee v. Detroit Medical Center](#), 285 Mich. App. 51, 775 N.W.2d 326 (2009), appeal denied, 485 Mich. 1121, 779 N.W.2d 501 (2010) and appeal denied, 485 Mich. 1121, 779 N.W.2d 502 (2010).  
As to the use of implications in the interpretation of a statute in order to render it effective, see § 155.
- 2      [Luria v. U.S.](#), 231 U.S. 9, 34 S. Ct. 10, 58 L. Ed. 101 (1913); [Chesek v. Jones](#), 406 Md. 446, 959 A.2d 795 (2008); [Davis v. Nye Ditch Users Imp. Dist.](#), 247 Or. App. 266, 268 P.3d 778 (2011).
- 3      [Luria v. U.S.](#), 231 U.S. 9, 34 S. Ct. 10, 58 L. Ed. 101 (1913).
- 4      § 202.
- 5      [U.S. v. Kelly](#), 55 F.2d 67, 83 A.L.R. 122 (C.C.A. 2d Cir. 1932); [Commonwealth ex rel. Cartwright v. Cartwright](#), 350 Pa. 638, 40 A.2d 30, 155 A.L.R. 1088 (1944).
- 6      [Singh v. Superior Court](#), 140 Cal. App. 4th 387, 44 Cal. Rptr. 3d 348 (2d Dist. 2006).
- 7      [Nevada State Democratic Party v. Nevada Republican Party](#), 256 P.3d 1 (Nev. 2011).
- 8      [Forest Grove School Dist. v. T.A.](#), 557 U.S. 230, 129 S. Ct. 2484, 174 L. Ed. 2d 168, 245 Ed. Law Rep. 551 (2009).
- 9      [Duplin County Bd. of Educ. v. Duplin County Bd. of County Com'rs](#), 201 N.C. App. 113, 686 S.E.2d 169, 251 Ed. Law Rep. 494 (2009), appeal dismissed, review denied, 364 N.C. 128, 695 S.E.2d 758 (2010).
- 10     [Texas Mut. Ins. Co. v. Sara Care Child Care Center, Inc.](#), 324 S.W.3d 305 (Tex. App. El Paso 2010), review denied, (Feb. 25, 2011).
- 11     [Thompson v. State ex rel. Bd. of Trustees of Oklahoma Public Employees Retirement System](#), 2011 OK 89, 264 P.3d 1251 (Okla. 2011).
- 12     [Maita Distributors, Inc. of San Mateo v. DBI Beverage, Inc.](#), 667 F. Supp. 2d 1140 (N.D. Cal. 2009).
- 13     [Isaacson v. Dow Chemical Co.](#), 517 F.3d 129 (2d Cir. 2008).

## 73 Am. Jur. 2d Statutes § 119

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 4. General Presumptions, Implications, and Inferences

## § 119. General restrictions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

The courts may not by implication read into a statute that which is not intended to be there<sup>1</sup> or make an implication which the language of the statute does not warrant.<sup>2</sup> Thus, a condition or restriction should not be implied as to a right granted by a statute which places no such condition or restriction thereon.<sup>3</sup> Courts should exercise great wariness in the construction of statutes where their meaning is sought to be derived, not from specific language but out of the innuendoes of disjointed portions of the statute.<sup>4</sup>

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### Footnotes

<sup>1</sup> [State ex inf. Harvey v. Missouri Athletic Club](#), 261 Mo. 576, 170 S.W. 904 (1914).

<sup>2</sup> [U.S. v. Merriam](#), 263 U.S. 179, 44 S. Ct. 69, 68 L. Ed. 240, 29 A.L.R. 1547 (1923); [Sayles v. Commissioner of Corporations and Taxation](#), 286 Mass. 102, 189 N.E. 579, 91 A.L.R. 1267 (1934).

<sup>3</sup> [Smith v. Henger](#), 148 Tex. 456, 226 S.W.2d 425, 20 A.L.R.2d 853 (1950).

<sup>4</sup> [Palmer v. Com. of Mass.](#), 308 U.S. 79, 60 S. Ct. 34, 84 L. Ed. 93 (1939).

## 73 Am. Jur. 2d Statutes § 120

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### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 4. General Presumptions, Implications, and Inferences

## § 120. Rule that expression of particular matters implies exclusion of others

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 195

Enumeration weakens the force of the general law as to things not expressed.<sup>1</sup> In this regard, the canon of construction expressio unius est exclusio alterius or inclusio unius est exclusio alterius holds that to express or include one thing implies the exclusion of another or of the alternative.<sup>2</sup> The maxim "expressio unius est exclusio alterius," that the mention of one thing in a statute impliedly excludes another thing, is used to determine legislative intent.<sup>3</sup> Under the general rule of statutory construction expressio unius est exclusio alterius, the expression of one or more items of a class implies that those not identified are to be excluded.<sup>4</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. [Salinas v. United States Railroad Retirement Board](#), 141 S. Ct. 691 (2021).

Courts generally presume that when Congress includes particular language in one section of a statute but omits it in another, Congress intended a difference in meaning. [Maine Community Health Options v. United States](#), 140 S. Ct. 1308 (2020).

Courts generally presume that Congress acts intentionally and purposely when it includes particular language in one section of a statute but omits it in another. [Intel Corporation Investment Policy Committee v. Sulyma](#), 140 S. Ct. 768 (2020).

When Congress includes particular language in one section of a statute but omits it in another, a court presumes that Congress intended a difference in meaning. [Digital Realty Trust, Inc. v. Somers](#), 138 S. Ct. 767 (2018).

In interpreting a statute, a court will presume that the legislature says what it means and means what it says. [Henson v. Santander Consumer USA Inc.](#), 137 S. Ct. 1718 (2017).

The statutory interpretive canon "expressio unius est exclusio alterius" means that expressing one item of an associated group or series excludes another left unmentioned. [N.L.R.B. v. SW General, Inc.](#), 137 S. Ct. 929 (2017).

The force of any negative implication, under the statutory interpretive canon expressio unius est exclusio alterius, depends on context, and the expressio unius canon applies only when circumstances support a sensible inference that the term left out must have been meant to be excluded. [N.L.R.B. v. SW General, Inc.](#), 137 S. Ct. 929 (2017).

A "notwithstanding" clause in a federal statute does not naturally give rise to an inference, under the statutory interpretive canon expressio unius est exclusio alterius, that a statutory provision unmentioned in the clause has been excluded; it just shows which of two or more provisions prevails in the event of a conflict, confirming rather than constraining breadth, and singling out one potential conflict in the clause might suggest that Congress thought the conflict was particularly difficult to resolve, or was quite likely to arise, but doing so generally does not imply anything about other, unaddressed conflicts, much less that they should be resolved in the opposite manner. [N.L.R.B. v. SW General, Inc.](#), 137 S. Ct. 929 (2017).

Absent persuasive indications to the contrary, the Supreme Court presumes Congress says what it means and means what it says. [Simmons v. Himmelreich](#), 136 S. Ct. 1843 (2016).

When Congress includes particular language in one section of a statute but omits it in another, the Supreme Court presumes that Congress intended a difference in meaning. [Loughrin v. U.S.](#), 134 S. Ct. 2384 (2014).

Where Congress includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. [Sebelius v. Cloer](#), 133 S. Ct. 1886 (2013).

When a statute specifically provides for exceptions, items not excluded are covered by the statute. [In re Guardianship of Eliza W.](#), 304 Neb. 995, 938 N.W.2d 307 (2020).

When a statute specifically provides for exceptions, items not excluded are covered by the statute. [Conroy v. Keith County Board of Equalization](#), 288 Neb. 196, 846 N.W.2d 634 (2014).

When a statute or an administrative rule identifies only a single exception, a negative inference, i.e., that an agency is precluded from recognizing other exceptions, is unlikely. [Eastern Oregon Mining Association v. Department of Environmental Quality](#), 365 Or. 313, 445 P.3d 251 (2019).

When interpreting statutory text, Supreme Court presumes that the expression of one term should be interpreted as the exclusion of another, and will not infer substantive terms into the text that are not already there; Court assumes, absent a contrary indication, that the legislature used each term advisedly and seeks to give effect to omissions in statutory language by presuming all omissions to be purposeful. [2 Ton Plumbing, L.L.C. v. Thorgaard](#), 2015 UT 29, 345 P.3d 675 (Utah 2015).

## [END OF SUPPLEMENT]

Footnotes

1 Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578 (2000).

2 City of Rock Hill v. Harris, 391 S.C. 149, 705 S.E.2d 53 (2011); Marblex Design Intern., Inc. v. Stevens, 54 Va. App. 299, 678 S.E.2d 276 (2009); In re Detention of Lewis, 163 Wash. 2d 188, 177 P.3d 708 (2008).

3 Patterson v. Beall, 2000 OK 92, 19 P.3d 839 (Okla. 2000).

4 People v. Lai, 138 Cal. App. 4th 1227, 42 Cal. Rptr. 3d 444 (2d Dist. 2006); Pro-Art Dental Lab, Inc. v. V-Strategic Group, LLC, 986 So. 2d 1244 (Fla. 2008); Davis v. Wallace, 310 Ga. App. 340, 713 S.E.2d 446 (2011), cert. denied, (Nov. 7, 2011); City of Moorhead v. Red River Valley Co-op. Power Ass'n, 2012 WL 254488 (Minn. Ct. App. 2012).  
Where a statute describes the particular situations in which it is to apply and no qualifying exception is added, an irrefutable inference must be drawn that what is omitted or not included was intended to be omitted or excluded. Raynor v. Landmark Chrysler, 18 N.Y.3d 48, 936 N.Y.S.2d 63, 959 N.E.2d 1011 (2011).

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## 73 Am. Jur. 2d Statutes § 121

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### Statutes

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#### V. Interpretation

##### D. Language of Statute

###### 4. General Presumptions, Implications, and Inferences

### § 121. Rule that expression of particular matters implies exclusion of others—Limitations of rule

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#### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 195

The maxim "expressio unius est exclusio alterius"<sup>1</sup> is not of universal,<sup>2</sup> but of limited, use and application.<sup>3</sup> It is an aid to construction, not a rule of law.<sup>4</sup> It is not conclusive,<sup>5</sup> is applicable only under certain conditions,<sup>6</sup> is subject to exceptions,<sup>7</sup> may not be used to create an ambiguity,<sup>8</sup> and requires great caution in its application.<sup>9</sup> Under these rules, a statutory definition of a term as "including" certain things does not necessarily put a meaning thereon limited to the inclusion.<sup>10</sup> The canon "expressio unius est exclusio alterius" does not apply to every statutory listing or grouping; it has force only when the items expressed are members of an associated group or series, justifying the inference that items not mentioned were excluded by deliberate choice, not inadvertence.<sup>11</sup>

The rule embodied in the maxim "expressio unius est exclusio alterius" is applied only to assist in arriving at the real intention of the lawmakers<sup>12</sup> where such intention is not manifest.<sup>13</sup> It may not be used to defeat or override clear and contrary evidence of legislative intent.<sup>14</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

"Expressio unius" canon does not apply in construing a statute unless it is fair to suppose that Congress considered the unnamed possibility and meant to say no to it. [Marx v. General Revenue Corp.](#), 133 S. Ct. 1166 (2013).

<sup>10</sup> "Expressio unius" canon may be overcome by contrary indications that adopting a particular rule or statute was probably not meant to signal any exclusion. *Marx v. General Revenue Corp.*, 133 S. Ct. 1166 (2013).

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### Footnotes

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## 73 Am. Jur. 2d Statutes § 122

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 4. General Presumptions, Implications, and Inferences

## § 122. Use of different language in different parts of statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 205 to 207, 209

Where different language is used in different parts of a statute, it is presumed that the language is used with a different intent.<sup>1</sup> Likewise, the use of differing language in otherwise parallel statutory provisions supports an inference that a difference in meaning was intended.<sup>2</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

In construing a statute, courts do not lightly assume that Congress silently attaches different meanings to the same term in the same statute. [United States Forest Service v. Cowpasture River Preservation Association](#), 140 S. Ct. 1837 (2020).

When courts are engaged in the business of interpreting statutes, they generally presume that differences in language convey differences in meaning. [Henson v. Santander Consumer USA Inc.](#), 137 S. Ct. 1718 (2017).

General rule, that Congress's use of certain language in one part of the statute and different language in another can indicate that different meanings were intended, like other canons of construction, is no more than a rule of thumb that can tip the scales when a statute could be read in multiple ways. [Sebelius v. Auburn Regional Medical Center](#), 133 S. Ct. 817 (2013).

Generally, identical words used in different parts of the same statute are presumed to have the same meaning, but where Congress uses certain language in one part of the statute and different language in another, the court assumes different meanings were intended. [Mary Jo C. v. New York State and Local Retirement System](#), 707 F.3d 144 (2d Cir. 2013).

Courts presume that when Congress uses different language in separate subsections of the same statute, it intends different meanings. [Public Interest Legal Foundation v. Boockvar](#), 431 F. Supp. 3d 553 (M.D. Pa. 2019).

Use of different words by Congress presumably means that Congress intended for these different words to have different meanings and effects. [In re Salgado-Nava](#), 473 B.R. 911 (B.A.P. 9th Cir. 2012).

Where the legislature includes specific language in one section of a statute and excludes it from another section, the language may not be implied where excluded. [Com. v. Mazzetti](#), 44 A.3d 58 (Pa. 2012).

## [END OF SUPPLEMENT]

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### Footnotes

1 DePierre v. U.S., 131 S. Ct. 2225, 180 L. Ed. 2d 114 (2011); [Guarantee Title & Trust Co. v. Title Guaranty & Surety Co.](#), 224 U.S. 152, 32 S. Ct. 457, 56 L. Ed. 706 (1912); [Crosby Lodge, Inc. v. National Indian Gaming Com'n](#), 803 F. Supp. 2d 1198 (D. Nev. 2011); [Hoffman v. Smithwoods RV Park, LLC](#), 179 Cal. App. 4th 390, 102 Cal. Rptr. 3d 72 (6th Dist. 2009); [Julie Q. v. Department of Children and Family Services](#), 2011 IL App (2d) 100643, 357 Ill. Dec. 448, 963 N.E.2d 401 (App. Ct. 2d Dist. 2011), appeal allowed, (Mar. 28, 2012); [State v. Tracer](#), 173 Wash. 2d 708, 272 P.3d 199 (2012).

Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. [Dean v. U.S.](#), 556 U.S. 568, 129 S. Ct. 1849, 173 L. Ed. 2d 785 (2009); [Clay v. U.S.](#), 537 U.S. 522, 123 S. Ct. 1072, 155 L. Ed. 2d 88 (2003).

As to presumptions regarding the use of the same terms in different parts of a statute, or in different statutes or constitutional provisions, see §§ 140, 141.

2 [Fairbanks v. Superior Court](#), 46 Cal. 4th 56, 92 Cal. Rptr. 3d 279, 205 P.3d 201 (2009).

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## 73 Am. Jur. 2d Statutes § 123

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### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 4. General Presumptions, Implications, and Inferences

## § 123. Language in amendments; change of language

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 212.2, 212.5

In making material changes in the language of a statute, the legislature is not assumed to have regarded such changes as without significance<sup>1</sup> and is not assumed to have committed an oversight or to have acted inadvertently.<sup>2</sup> To the contrary, the general rule is that a change in phraseology indicates<sup>3</sup> persuasively,<sup>4</sup> and raises a presumption, that a departure from the old law was intended,<sup>5</sup> particularly where the change in language is substantial and material.<sup>6</sup> Courts presume that the legislature is aware of judicial interpretations of existing statutes and that by enacting a new one on the same subject, it is ordinarily the intent of the legislature to effect some change in the existing law.<sup>7</sup> On the other hand, every change in phraseology does not indicate a change in substance and intent.<sup>8</sup>

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### Footnotes

- 1 Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 61 S. Ct. 868, 85 L. Ed. 1214 (1941); Kelly v. Retail Liquor Dealers Ass'n of Dade County, 126 So. 2d 299 (Fla. Dist. Ct. App. 3d Dist. 1961).
- 2 McLaughlin v. People, 403 Ill. 493, 87 N.E.2d 637 (1949); Fort Hays State University v. Fort Hays State University Chapter, American Assoc. of University Professors, 290 Kan. 446, 228 P.3d 403, 255 Ed. Law Rep. 975 (2010).
- 3 Spring City Foundry Co. v. Commissioner of Internal Revenue, 292 U.S. 182, 54 S. Ct. 644, 78 L. Ed. 1200 (1934); North River Ins. Co. v. Gibson, 244 S.C. 393, 137 S.E.2d 264 (1964).
- 4 Board of Com'r's of Creek County v. Seber, 318 U.S. 705, 63 S. Ct. 920, 87 L. Ed. 1094 (1943); North River Ins. Co. v. Gibson, 244 S.C. 393, 137 S.E.2d 264 (1964).

5 Bugajewitz v. Adams, 228 U.S. 585, 33 S. Ct. 607, 57 L. Ed. 978 (1913); In re M.L., 28 A.3d 520 (D.C. 2011); Punsky v. Clay County Bd. of County Com'rs, 60 So. 3d 1088 (Fla. Dist. Ct. App. 1st Dist. 2011), review denied, 77 So. 3d 647 (Fla. 2011); Brennan v. Kansas Ins. Guar. Ass'n, 293 Kan. 446, 264 P.3d 102 (2011); Lemoine/Brasfield & Gorrie Joint Venture, LLC v. Orleans Parish Criminal Sheriff's Office, 63 So. 3d 1068 (La. Ct. App. 4th Cir. 2011), writ denied, 63 So. 3d 1041 (La. 2011).

6 Punsky v. Clay County Bd. of County Com'rs, 60 So. 3d 1088 (Fla. Dist. Ct. App. 1st Dist. 2011), review denied, 77 So. 3d 647 (Fla. 2011).

7 E & B Granite, Inc. v. Director of Revenue, 331 S.W.3d 314 (Mo. 2011).

8 Colgate-Palmolive-Peet Co. v. U.S., 320 U.S. 422, 64 S. Ct. 227, 88 L. Ed. 143 (1943); U.S. v. Dickerson, 310 U.S. 554, 60 S. Ct. 1034, 84 L. Ed. 1356 (1940); Pete's Mountain Homeowners Ass'n v. Oregon Water Resources Dept., 236 Or. App. 507, 238 P.3d 395 (2010).

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## 73 Am. Jur. 2d Statutes § 124

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 4. General Presumptions, Implications, and Inferences

## § 124. Language in amendments; omissions of terms

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 203, 212.2

The omission of a word in the amendment of a statute will be assumed to have been intentional.<sup>1</sup> Where it is apparent that substantive portions of a statute have been omitted by process of amendment, the courts have no express or implied authority to supply omissions that are material and substantive because that would in effect be the enactment of substantive law.<sup>2</sup>

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### Footnotes

1 Blankenship v. Allstate Ins. Co., 186 Cal. App. 4th 87, 111 Cal. Rptr. 3d 528 (3d Dist. 2010); T-Mobile USA, Inc. v. Utah State Tax Com'n, 2011 UT 28, 254 P.3d 752 (Utah 2011).

2 Davis v. Florida Power Co., 64 Fla. 246, 60 So. 759 (1913); Fort Hays State University v. Fort Hays State University Chapter, American Assoc. of University Professors, 290 Kan. 446, 228 P.3d 403, 255 Ed. Law Rep. 975 (2010).

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## 73 Am. Jur. 2d Statutes § 125

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 5. Effect of Association of Words, Phrases, and Sentences

## § 125. Meanings of terms ascertained in context of associated words

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 193, 205, 206

In the interpretation of statutory terms, the doctrine of construction "noscitur a sociis" prevails.<sup>1</sup> That is, the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute.<sup>2</sup> Under the doctrine of "noscitur a sociis," an ambiguous term may be given more precise content by the neighboring words with which it is associated.<sup>3</sup> It is also a familiar policy in the construction of terms of a statute to take into consideration the meaning naturally attaching to them from the context<sup>4</sup> and to adopt that sense of the words which best harmonizes with the context.<sup>5</sup> Thus, although words and sentences, or parts of sentences, have no very definite signification in their ordinary use, if a particular meaning and application appears from their use or connection in the statute, that meaning and application must be accepted as proper and controlling.<sup>6</sup> Indeed, it is improper in construing a statute to take a few words from its context, and with them thus isolated, attempt to determine their meaning.<sup>7</sup> Furthermore, a court may not, in order to give effect to particular words, virtually destroy the meaning of the entire context,<sup>8</sup> and the doctrine of noscitur a sociis should not be made to operate to render general words meaningless.<sup>9</sup>

### Observation:

The U.S.R.C.A. provides that, as an aid to construction that may be considered in ascertaining the meaning of text, the meaning of a word or phrase may be limited by the series of words or phrases of which it is a part.<sup>10</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The meaning of a statement often turns on the context in which it is made, and that is no less true of statutory language. [United States v. Briggs](#), 141 S. Ct. 467 (2020).

The words of a statute must be read in their context. [Intel Corporation Investment Policy Committee v. Sulyma](#), 140 S. Ct. 768 (2020).

The words of a statute must be read in their context and with a view to their place in the overall statutory scheme. [Parker Drilling Management Services, Ltd. v. Newton](#), 139 S. Ct. 1881, 204 L. Ed. 2d 165 (2019).

"Noscitur a sociis" is a well-worn Latin phrase that tells courts that statutory words are often known by the company they keep. [Lagos v. U.S.](#), 138 S. Ct. 1684 (2018).

Distributive canon of statutory interpretation recognizes that sometimes where a sentence contains several antecedents and several consequents, courts should read them distributively and apply the words to the subjects which, by context, they seem most properly to relate. [Encino Motorcars, LLC v. Navarro](#), 138 S. Ct. 1134 (2018).

Congress does not alter the fundamental details of an existing statutory scheme with vague terms and subtle devices; that is true in spades when it comes to the work of the Federal Rules Advisory Committees. [Hall v. Hall](#), 138 S. Ct. 1118 (2018).

Use of the word "any" will sometimes indicate that Congress intended particular statutory text to sweep broadly, but whether it does so necessarily depends on the statutory context. [National Ass'n of Mfrs. v. Department of Defense](#), 138 S. Ct. 617 (2018).

A word in a statute is given more precise content by the neighboring words with which it is associated. [Life Technologies Corp. v. Promega Corp.](#), 137 S. Ct. 734 (2017).

Under the interpretive canon "noscitur a sociis," a word is known by the company it keeps; while not an inescapable rule, this canon is often wisely applied where a word is capable of many meanings in order to avoid the giving of unintended breadth to the Acts of Congress. [McDonnell v. U.S.](#), 136 S. Ct. 2355 (2016).

Courts must interpret the relevant words in a statute not in a vacuum, but with reference to the statutory context. [Torres v. Lynch](#), 136 S. Ct. 1619 (2016).

Statutory language cannot be construed in a vacuum. [Sturgeon v. Frost](#), 136 S. Ct. 1061 (2016).

The words of a statute must be read in their context and with a view to their place in the overall statutory scheme. [Sturgeon v. Frost](#), 136 S. Ct. 1061 (2016).

If the statutory language is plain, the court must enforce it according to its terms, but oftentimes the meaning or ambiguity of certain words or phrases may only become evident when placed in context, so when deciding whether the language is plain,

the court must read the words in their context and with a view to their place in the overall statutory scheme. [King v. Burwell](#), 135 S. Ct. 2480 (2015).

A statutory provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law. [King v. Burwell](#), 135 S. Ct. 2480 (2015).

To resolve ambiguity of word used in statute, court looks to the context in which the word is used. [Direct Marketing Ass'n v. Brohl](#), 135 S. Ct. 1124 (2015).

Under the principle of "noscitur a sociis," i.e., a word is known by the company it keeps, courts avoid ascribing to one word in a federal statute a meaning so broad that it is inconsistent with its accompanying words, thus giving unintended breadth to the Acts of Congress. (Per Justice Ginsburg, with three Justices concurring and one Justice concurring in the judgment.) [Yates v. U.S.](#), 135 S. Ct. 1074 (2015).

It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. [Utility Air Regulatory Group v. E.P.A.](#), 134 S. Ct. 2427 (2014).

Statutory text may not be divorced from context. [University of Texas Southwestern Medical Center v. Nassar](#), 133 S. Ct. 2517 (2013).

Words in a statute that can have more than one meaning are given content by their surroundings. [Arizona v. Inter Tribal Council of Arizona, Inc.](#), 133 S. Ct. 2247 (2013).

The canon of "noscitur a sociis" is the interpretive rule that words and people are known by their companions. [Maracich v. Spears](#), 133 S. Ct. 2191 (2013).

In construing a term in statute, court should avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving unintended breadth to the Acts of Congress or state legislatures. [In re Lyondell Chemical Company](#), 541 B.R. 172 (Bankr. S.D. N.Y. 2015).

In construing a statute, two words together may assume a more particular meaning than those words in isolation. [Arizona Dept. of Water Resources v. McClenen](#), 360 P.3d 1023 (Ariz. 2015).

Supreme Court interprets a statute in the context of the overall statutory scheme and not in isolation. [Turner v. Shared Towers VA, LLC](#), 107 A.3d 1236 (N.H. 2014).

In construing a statute, in addition to the text of the statute, court also considers the statute's context, which includes the common law and the statutory framework within which the law was enacted. [State v. Medina](#), 357 Or. 254, 355 P.3d 108 (2015).

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### Footnotes

1 [Cuccinelli v. Rector, Visitors of University of Virginia](#), 283 Va. 420, 722 S.E.2d 626, 277 Ed. Law Rep. 513 (2012); [State v. Budik](#), [State v. Budik](#), 173 Wash. 2d 727, 272 P.3d 816 (2012).

2        Roberts v. Sea-Land Services, Inc., 132 S. Ct. 1350 (2012); Babbitt v. Sweet Home Chapter of Communities for a Great Oregon, 515 U.S. 687, 115 S. Ct. 2407, 132 L. Ed. 2d 597 (1995); In re Complaint of Rovas Against SBC Michigan, 482 Mich. 90, 754 N.W.2d 259 (2008); State v. Budik, 173 Wash. 2d 727, 272 P.3d 816 (2012).  
The interpretive canon "noscitur a sociis" is invoked when a string of statutory terms raises the implication that the words grouped in a list should be given related meaning. [S.D. Warren Co. v. Maine Bd. of Environmental Protection](#), 547 U.S. 370, 126 S. Ct. 1843, 164 L. Ed. 2d 625, 17 A.L.R. Fed. 2d 807 (2006). Under the maxim of statutory construction "noscitur a sociis," a word is known by the company it keeps. [Gregory v. Ashcroft](#), 501 U.S. 452, 111 S. Ct. 2395, 115 L. Ed. 2d 410 (1991).

3        Bilski v. Kappos, 130 S. Ct. 3218, 177 L. Ed. 2d 792 (2010); U.S. v. Stevens, 130 S. Ct. 1577, 176 L. Ed. 2d 435 (2010).

4        Third Nat. Bank in Nashville v. Impac Ltd., Inc., 432 U.S. 312, 97 S. Ct. 2307, 53 L. Ed. 2d 368 (1977); In re Robinson, 449 B.R. 473 (Bankr. E.D. Va. 2011); Montez v. People, 2012 CO 6, 269 P.3d 1228 (Colo. 2012); Jaylo v. Jaylo, 125 Haw. 369, 262 P.3d 245 (2011).  
Terms must be read in their statutory context in order to determine how the provision in question should be applied in an individual case. [U.S. v. Tinklenberg](#), 131 S. Ct. 2007, 179 L. Ed. 2d 1080 (2011).  
Use of the word "include" in a statute can signal that the list that follows is meant to be illustrative rather than exhaustive. [Samantar v. Yousuf](#), 130 S. Ct. 2278, 176 L. Ed. 2d 1047 (2010).  
As to the determination of the purpose of the law by the context, see § 72.

5        Armour & Co. v. Wantock, 323 U.S. 126, 65 S. Ct. 165, 89 L. Ed. 118 (1944); Lewis Realty, Inc. v. Wisconsin Real Estate Brokers' Bd., 6 Wis. 2d 99, 94 N.W.2d 238 (1959).

6        Pasadena University v. Los Angeles County, 190 Cal. 786, 214 P. 868 (1923); Orr Ditch & Water Co. v. Justice Court of Reno Tp., Washoe County, 64 Nev. 138, 178 P.2d 558 (1947).  
Words grouped in a list in a statute should be given related meaning. In re Complaint of Rovas Against SBC Michigan, 482 Mich. 90, 754 N.W.2d 259 (2008).

7        U.S. v. American Trucking Ass'n, 310 U.S. 534, 60 S. Ct. 1059, 84 L. Ed. 1345 (1940); Adams v. Commission on Appellate Court Appointments, 227 Ariz. 128, 254 P.3d 367 (2011).

8        Van Dyke v. Cordova Copper Co, 234 U.S. 188, 34 S. Ct. 884, 58 L. Ed. 1273 (1914); City of Covington v. State Tax Com'n, 257 Ky. 84, 77 S.W.2d 386 (1934).

9        Mason v. U.S., 260 U.S. 545, 43 S. Ct. 200, 67 L. Ed. 396 (1923).

10      Unif. Statute and Rule Construction Act § 20(a)(1).

## 73 Am. Jur. 2d Statutes § 126

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 5. Effect of Association of Words, Phrases, and Sentences

## § 126. Limitation of general words by specific terms

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 194

General and specific words in a statute which are associated together and which are capable of an analogous meaning take color from each other so that the general words are restricted to a sense analogous to the less general.<sup>1</sup> General words in a statute are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words.<sup>2</sup> Similarly, in accordance with what is commonly known as the rule of ejusdem generis,<sup>3</sup> where in a statute general words follow a designation of particular subjects or classes of persons, the meaning of the general words will ordinarily be presumed to be,<sup>4</sup> and construed as, restricted by the particular designation<sup>5</sup> and as including only things or persons of the same kind, class, character, or nature as those specifically enumerated.<sup>6</sup> A court typically uses ejusdem generis to ensure that a general word will not render specific words meaningless.<sup>7</sup> The doctrine of ejusdem generis applies whether specific words follow general words in a statute or vice versa; in either event, the general term or category is restricted to those things that are similar to those which are enumerated specifically.<sup>8</sup> In accordance with the rule of ejusdem generis, such terms as "other," "other thing," "other persons," "others," "otherwise," or "any other," when preceded by a specific enumeration, are commonly given a restricted meaning and limited to articles of the same nature as those previously described.<sup>9</sup> Thus, the words "other" or "any other" following an enumeration of particular classes should be read as other such like and to include only others of like kind or character.<sup>10</sup>

### Observation:

The U.S.R.C.A. provides that, as an aid to construction that may be considered in ascertaining the meaning of text, the meaning of a general word or phrase following two or more specific words or phrases may be limited to the category established by the specific words or phrases.<sup>11</sup>

When Congress provides specific statutory obligations, a court will not read a "catchall" provision to impose general obligations that would include those specifically enumerated.<sup>12</sup> Typically, statutory terms such as "including" and "including but not limited to," when they precede a list of statutory examples, convey an intent that an accompanying list of examples be read in a nonexclusive sense; in that context, courts continue to give interpretive weight to all the words that the legislature used, including both the general term and any specific examples.<sup>13</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Where a more general term in a statute follows more specific terms in a list, the general term is usually understood to embrace only objects similar in nature to those objects enumerated by the preceding specific words. [Epic Systems Corp. v. Lewis](#), 138 S. Ct. 1612 (2018).

It is a commonplace of statutory construction that the specific governs the general. [N.L.R.B. v. SW General, Inc.](#), 137 S. Ct. 929 (2017).

The "ejusdem generis" canon of statutory construction counsels that where general words follow specific words in a statutory enumeration, the general words are usually construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words. (Per Justice Ginsburg, with three Justices concurring and one Justice concurring in the judgment.) [Yates v. U.S.](#), 135 S. Ct. 1074 (2015).

It is a familiar canon of statutory construction that catchall clauses are to be read as bringing within a statute categories similar in type to those specifically enumerated. [Paroline v. U.S.](#), 134 S. Ct. 1710 (2014).

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### Footnotes

- 1                   [Moore v. California State Bd. of Accountancy](#), 2 Cal. 4th 999, 9 Cal. Rptr. 2d 358, 831 P.2d 798 (1992); [Powers ex rel. Doyon v. Charron](#), 86 R.I. 411, 135 A.2d 829 (1957).
- 2                   [Sossamon v. Texas](#), 131 S. Ct. 1651, 179 L. Ed. 2d 700 (2011).
- 3                   [Brogan v. U.S.](#), 522 U.S. 398, 118 S. Ct. 805, 139 L. Ed. 2d 830 (1998); [People v. Arias](#), 45 Cal. 4th 169, 85 Cal. Rptr. 3d 1, 195 P.3d 103 (2008).
- 4                   [Jefferson County Fiscal Court v. Jefferson County ex rel. Grauman](#), 278 Ky. 68, 128 S.W.2d 230 (1939); [Sands Appliance Services, Inc. v. Wilson](#), 463 Mich. 231, 615 N.W.2d 241 (2000).

5                   Harrison v. PPG Industries, Inc., 446 U.S. 578, 100 S. Ct. 1889, 64 L. Ed. 2d 525 (1980); U.S. v. Dauray, 215 F.3d 257 (2d Cir. 2000).  
A specific statutory provision controls provisions of more general application. Bloate v. U.S., 130 S. Ct. 1345, 176 L. Ed. 2d 54 (2010).

6                   Hall Street Associates, L.L.C. v. Mattel, Inc., 552 U.S. 576, 128 S. Ct. 1396, 170 L. Ed. 2d 254 (2008); 600 Land, Inc. v. Metropolitan Bd. of Zoning Appeals of Marion County, 889 N.E.2d 305 (Ind. 2008); Wison ex rel. Manzano v. City of Jersey City, 2012 WL 739043 (N.J. 2012); Whitney v. Division of Juvenile Justice Services, 2012 UT 12, 2012 WL 698182 (Utah 2012).  
Specific statutory language should control more general language when there is conflict between them. National Cable & Telecommunications Ass'n, Inc. v. Gulf Power Co., 534 U.S. 327, 122 S. Ct. 782, 151 L. Ed. 2d 794 (2002); McKenzie County v. Reichman, 2012 ND 20, 2012 WL 178339 (N.D. 2012).

7                   CSX Transp., Inc. v. Alabama Dept. of Revenue, 131 S. Ct. 1101, 179 L. Ed. 2d 37 (2011).

8                   People v. Giordano, 42 Cal. 4th 644, 68 Cal. Rptr. 3d 51, 170 P.3d 623 (2007).

9                   Appeal of Mosby, 360 Mich. 186, 103 N.W.2d 462 (1960); Derk v. Zerbe Tp., 322 Pa. 350, 185 A. 647 (1936).

10                  Trinity Park, L.P. v. City of Sunnyvale, 193 Cal. App. 4th 1014, 124 Cal. Rptr. 3d 26 (6th Dist. 2011).

11                  Unif. Statute and Rule Construction Act § 20(a)(2).

12                  U.S. v. Jicarilla Apache Nation, 131 S. Ct. 2313, 180 L. Ed. 2d 187 (2011).

13                  State v. Kurtz, 350 Or. 65, 249 P.3d 1271 (2011).

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## 73 Am. Jur. 2d Statutes § 127

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### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 5. Effect of Association of Words, Phrases, and Sentences

## § 127. Limitation of general words by specific terms—Limitations on operation of rule

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 194

The rule of ejusdem generis<sup>1</sup> is far from being one of universal application.<sup>2</sup> It is neither final nor conclusive;<sup>3</sup> it is no more than an aid to construction and comes into play only when there is some uncertainty as to the meaning of a particular clause in a statute.<sup>4</sup> That is, the doctrine of ejusdem generis is not a positive rule of law<sup>5</sup> but a rule of construction to aid in ascertaining<sup>6</sup> and giving effect to the legislative intent<sup>7</sup> where there is uncertainty.<sup>8</sup>

The rule of ejusdem generis does not necessarily require that the general term be limited in its scope to the identical things specifically enumerated<sup>9</sup> nor does the doctrine warrant the court in subverting or defeating the legislative will<sup>10</sup> by confining the operation of a statute within narrower limits than intended by the lawmakers.<sup>11</sup> If, on consideration of the context and whole law upon the subject, and the purposes sought to be effected, it is apparent that the legislature intended the general words to go beyond the class specially designated, the rule does not apply<sup>12</sup> nor does the rule apply to restrict the operation of a general expression where the specific things enumerated have no common characteristic.<sup>13</sup>

A court will not woodenly apply limiting principles, such as ejusdem generis, every time Congress includes a specific example along with a general phrase.<sup>14</sup> The absence of a list of specific items undercuts the inference embodied in the ejusdem generis rule of statutory construction, i.e., that Congress remained focused on a common attribute when it used a catchall phrase.<sup>15</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

Canon of statutory construction of ejusdem generis did not apply to determination whether prison policy that visitors would be subject to canine drug search was inconsistent with regulation requiring prison superintendent to promulgate prison policy for search of prison visitors designed to prevent introduction of contraband into prison visiting area, which "may include, as a prerequisite to admission, that visitors successfully pass through a metal detector and/or scanner, and/or a personal search," where list of search procedures began with general term "a search procedure that is effective," followed by nonexclusive examples of search procedures. [103 Mass. Code Regs. 483.14\(2\)](#). *Carey v. Commissioner of Correction*, 479 Mass. 367, 95 N.E.3d 220 (2018).

**[END OF SUPPLEMENT]**

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Footnotes

- 1                   § 126.
- 2                   Danciger v. Cooley, 248 U.S. 319, 39 S. Ct. 119, 63 L. Ed. 266 (1919); Zumbrun Law Firm v. California Legislature, 165 Cal. App. 4th 1603, 82 Cal. Rptr. 3d 525 (3d Dist. 2008), as modified on denial of reh'g, (Sept. 16, 2008).
- 3                   Helvering v. Stockholms Enskilda Bank, 293 U.S. 84, 55 S. Ct. 50, 79 L. Ed. 211 (1934); Orr Ditch & Water Co. v. Justice Court of Reno Tp., Washoe County, 64 Nev. 138, 178 P.2d 558 (1947).
- 4                   U.S. v. Turkette, 452 U.S. 576, 101 S. Ct. 2524, 69 L. Ed. 2d 246 (1981).
- 5                   State v. Grant, 294 Conn. 151, 982 A.2d 169 (2009); Mashak v. Poelker, 367 S.W.2d 625 (Mo. 1963).
- 6                   Phelps v. Commonwealth, 209 Ky. 318, 272 S.W. 743 (1925); Com. v. Randall, 183 Pa. Super. 603, 133 A.2d 276 (1957).
- 7                   Danciger v. Cooley, 248 U.S. 319, 39 S. Ct. 119, 63 L. Ed. 266 (1919); State v. Hart, 135 Idaho 827, 25 P.3d 850 (2001).
- 8                   U.S. v. Johnson, 655 F.3d 594 (7th Cir. 2011).
- 9                   U.S. v. Standard Oil Co., 384 U.S. 224, 86 S. Ct. 1427, 16 L. Ed. 2d 492 (1966); Orr Ditch & Water Co. v. Justice Court of Reno Tp., Washoe County, 64 Nev. 138, 178 P.2d 558 (1947).
- 10                  U.S. v. Powell, 423 U.S. 87, 96 S. Ct. 316, 46 L. Ed. 2d 228 (1975); Wilson ex rel. Manzano v. City of Jersey City, 209 N.J. 558, 39 A.3d 177 (2012).
- 11                  U.S. v. Mescall, 215 U.S. 26, 30 S. Ct. 19, 54 L. Ed. 77 (1909); State v. Hart, 135 Idaho 827, 25 P.3d 850 (2001).
- 12                  Gooch v. U.S., 297 U.S. 124, 56 S. Ct. 395, 80 L. Ed. 522 (1936); People v. Powell, 280 Mich. 699, 274 N.W. 372, 111 A.L.R. 721 (1937).
- 13                  Prussian v. U.S., 282 U.S. 675, 51 S. Ct. 223, 75 L. Ed. 610 (1931); Miller v. McKinnon, 20 Cal. 2d 83, 124 P.2d 34, 140 A.L.R. 570 (1942).
- 14                  Ali v. Federal Bureau of Prisons, 552 U.S. 214, 128 S. Ct. 831, 169 L. Ed. 2d 680 (2008).
- 15                  Ali v. Federal Bureau of Prisons, 552 U.S. 214, 128 S. Ct. 831, 169 L. Ed. 2d 680 (2008).

## 73 Am. Jur. 2d Statutes § 128

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### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 5. Effect of Association of Words, Phrases, and Sentences

## § 128. Relative and qualifying or modifying expressions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 196

Generally, relative and qualifying or modifying words, phrases, and clauses should be referred to the word, phrase, or clause with which they are grammatically connected.<sup>1</sup> Furthermore, where qualifying words are in the middle of a sentence, and apply to a particular branch of it, they are not to be extended to that which follows.<sup>2</sup>

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### Footnotes

1 [McClurg v. Kingsland](#), 42 U.S. 202, 1 How. 202, 11 L. Ed. 102, 1843 WL 5975 (1843); [State v. Clausen](#), 85 Wash. 260, 148 P. 28 (1915).

2 [Montgomery Light & Traction Co. v. Avant](#), 202 Ala. 404, 80 So. 497, 3 A.L.R. 384 (1918).

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### V. Interpretation

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##### 5. Effect of Association of Words, Phrases, and Sentences

## § 129. Relative and qualifying or modifying expressions—Application to last or prior antecedents

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 196

Qualifying words, phrases, and clauses are ordinarily confined to the last antecedent<sup>1</sup> or to the words and phrases immediately preceding.<sup>2</sup> The last antecedent, within the meaning of this rule, has been regarded as the last word which can be made an antecedent without impairing the meaning of the sentence.<sup>3</sup>

This rule of statutory construction, however, is not controlling or inflexible.<sup>4</sup> The rule is not applicable where a further extension or inclusion is clearly required by the intent and meaning of the context or disclosed by the entire act.<sup>5</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Distributive canon of statutory interpretation has the most force when the statute allows for one-to-one matching of antecedents and consequents. [Encino Motorcars, LLC v. Navarro](#), 138 S. Ct. 1134 (2018).

When interpreting a statute that includes a list of terms or phrases followed by a limiting clause, the Supreme Court typically applies the rule of the last antecedent, which provides that a limiting clause or phrase should ordinarily be read as modifying only the noun or phrase that it immediately follows. [Lockhart v. U.S.](#), 136 S. Ct. 958 (2016).

As with any canon of statutory interpretation, the rule of the last antecedent is not an absolute and can assuredly be overcome by other indicia of meaning. [Lockhart v. U.S., 136 S. Ct. 958 \(2016\)](#).

When interpreting a statute that includes a list of terms or phrases followed by a limiting clause, structural or contextual evidence may rebut the last antecedent inference. [Lockhart v. U.S., 136 S. Ct. 958 \(2016\)](#).

The grammatical rule of the last antecedent, according to which a limiting clause or phrase should ordinarily be read as modifying only the noun or phrase that it immediately follows, is not an absolute and can assuredly be overcome by other indicia of meaning. [Paroline v. U.S., 134 S. Ct. 1710 \(2014\)](#).

When several words in a statute are followed by a clause which is applicable as much to the first and other words as to the last, the natural construction of the language demands that the clause be read as applicable to all. [Paroline v. U.S., 134 S. Ct. 1710 \(2014\)](#).

A pronoun, relative pronoun, or demonstrative adjective within a statute generally refers to the nearest reasonable antecedent. [Salt Lake City Corporation v. Haik, 2020 UT 29, 466 P.3d 178 \(Utah 2020\)](#).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 U.S. v. Hagerman, 2011 WL 6096505 (N.D. N.Y. 2011); Connecticut Ins. Guar. Ass'n v. Drown, 134 Conn. App. 140, 2012 WL 744464 (2012).
- 2 Duffy v. Michigan Dept. of Natural Resources, 490 Mich. 198, 805 N.W.2d 399 (2011); Funderburk v. Oklahoma State and Educ. Employees Group Ins. Bd., 2011 OK CIV APP 123, 268 P.3d 556, 276 Ed. Law Rep. 458 (Div. 1 2011).
- 3 Payless Shoesource, Inc. v. Travelers Companies, Inc., 585 F.3d 1366 (10th Cir. 2009) (applying Kansas law); Ozdemir v. U.S., 89 Fed. Cl. 631 (2009).
- 4 In re 60 Pipes of Brandy, 23 U.S. 421, 6 L. Ed. 356, 1825 WL 3144 (1825); In re Estate of Butler, 803 N.W.2d 393 (Minn. 2011); Saade v. Villarreal, 280 S.W.3d 511 (Tex. App. Houston 14th Dist. 2009), review dismissed, (June 11, 2010).
- 5 Demko v. U.S., 216 F.3d 1049 (Fed. Cir. 2000); People v. Isaacson, 409 Ill. App. 3d 1079, 351 Ill. Dec. 355, 950 N.E.2d 1183 (4th Dist. 2011), appeal denied, 353 Ill. Dec. 8, 955 N.E.2d 475 (Ill. 2011).

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##### 5. Effect of Association of Words, Phrases, and Sentences

## § 130. Relative and qualifying or modifying expressions—Effect of punctuation

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 196

The presence of a comma separating a modifying clause in a statute from the clause immediately preceding it is an indication that the modifying clause was intended to modify all the preceding clauses and not only the last antecedent one.<sup>1</sup> However, qualifying words may, notwithstanding the absence of a comma after the words which immediately precede them, properly be construed as modifying the earlier portion of the statute, as well as the clause immediately preceding them, where such construction accords with the evident purpose of the statute.<sup>2</sup>

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### Footnotes

<sup>1</sup> [Kennedy v. Secretary of Health and Human Services](#), 99 Fed. Cl. 535 (2011); [Orthopedic Systems, Inc. v. Schlein](#), 202 Cal. App. 4th 529, 135 Cal. Rptr. 3d 200 (1st Dist. 2011), review denied, (Mar. 14, 2012). As to the effects of punctuation, generally, see § 132.

<sup>2</sup> [Wholesale Tobacco Dealers Bureau of Southern California v. National Candy & Tobacco Co.](#), 11 Cal. 2d 634, 82 P.2d 3, 118 A.L.R. 486 (1938).

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### V. Interpretation

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##### 6. Grammar; Spelling; Collocation

## § 131. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 200

It is presumed that the legislature in phrasing a statute knows the ordinary rules of grammar<sup>1</sup> and that the grammatical reading of a statute gives its correct sense.<sup>2</sup> An interpretation is to be avoided which is contrary to the grammatical construction of the statute.<sup>3</sup> On the other hand, statutes are generally not to be construed by strict and critical adherence to technical grammatical rules.<sup>4</sup> Indeed, where it is necessary to make the statute intelligible, the court may, and should, correct obvious mistakes in grammar and spelling.<sup>5</sup> When determining the meaning of an unambiguous statute, the court must apply the ordinary rules of grammar unless they lead to an absurd result.<sup>6</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The Legislature is presumed to know the rules of grammar. *Titan Ins. Co. v. State Farm Mut. Auto. Ins.*, 296 Mich. App. 75, 817 N.W.2d 621 (2012).

## [END OF SUPPLEMENT]

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Footnotes

1 U.S. v. Goldenberg, 168 U.S. 95, 18 S. Ct. 3, 42 L. Ed. 394 (1897); State v. Gandhi, 201 N.J. 161, 989 A.2d  
2 256 (2010), transfer denied, (Jan. 5, 2012); Bergaust v. Flaherty, 57 Va. App. 423, 703 S.E.2d 248 (2011).  
3 Lake County v. Rollins, 130 U.S. 662, 9 S. Ct. 651, 32 L. Ed. 1060 (1889); People ex rel. C.L.S., 2011 WL  
4 5865898 (Colo. App. 2011); Larson v. State, 790 N.W.2d 700 (Minn. 2010).  
5 In re Goldsworthy's Estate, 45 N.M. 406, 115 P.2d 627, 148 A.L.R. 722 (1941); In re Brock, 312 Pa. 92,  
6 166 A. 785 (1933).  
Heydenfeldt v. Daney Gold & Silver Mining Co., 93 U.S. 634, 23 L. Ed. 995, 1876 WL 19689 (1876); In  
re Detention of Altman, 723 N.W.2d 181 (Iowa 2006).  
State ex rel. Sullivan v. Burns, 51 Ariz. 384, 77 P.2d 215 (1938).  
Owner-Operator Independent Drivers Ass'n, Inc. v. Landstar System, Inc., 622 F.3d 1307 (11th Cir. 2010),  
cert. denied, 132 S. Ct. 91, 181 L. Ed. 2d 21 (2011); In re Guardianship of Stanfield, 2012 OK 8, 2012 WL  
385408 (Okla. 2012).

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#### 6. Grammar; Spelling; Collocation

## § 132. Punctuation

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 200

Punctuation is part of an act and may be considered in its interpretation.<sup>1</sup> However, a purported plain-meaning statutory analysis based only on punctuation is necessarily incomplete and runs the risk of distorting a statute's true meaning.<sup>2</sup> When there is no inconsistency, absurdity, or ambiguity in a statute as officially printed and punctuated, the court will not give it a different meaning by changing the punctuation.<sup>3</sup> However, punctuation is a minor,<sup>4</sup> and not a decisive or controlling, element in the interpretation of a statute.<sup>5</sup> Indeed, punctuation is generally regarded as a fallible standard of the meaning of a statute<sup>6</sup> and the last resort as an aid in its interpretation.<sup>7</sup>

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### Footnotes

<sup>1</sup> [In re Armstrong](#), 395 B.R. 127 (E.D. Wash. 2008); [Commerce Bancorp, Inc. v. InterArch, Inc.](#), 417 N.J. Super. 329, 9 A.3d 1056 (App. Div. 2010), certification denied, [205 N.J. 519](#), 16 A.3d 384 (2011).

<sup>2</sup> [American Small Business League v. U.S. Small Business Admin.](#), 623 F.3d 1052 (9th Cir. 2010), cert. denied, [131 S. Ct. 2460](#), 179 L. Ed. 2d 1212 (2011); [Serdarevic v. Centex Homes, LLC](#), 760 F. Supp. 2d 322 (S.D. N.Y. 2010).

<sup>3</sup> [In re Orange County Nursery, Inc.](#), 439 B.R. 144 (C.D. Cal. 2010); [Baker v. Morrison](#), 86 So. 2d 805 (Fla. 1956).

A statute's plain meaning must be enforced, and the statute's meaning will typically heed the commands of its punctuation. [U.S. Nat. Bank of Oregon v. Independent Ins. Agents of America, Inc.](#), 508 U.S. 439, 113 S. Ct. 2173, 124 L. Ed. 2d 402 (1993).

As to the effect of punctuation on the application of the rule confining qualifying or modifying expressions to the last antecedent, see § 130.

4       Barrett v. Van Pelt, 268 U.S. 85, 45 S. Ct. 437, 69 L. Ed. 857 (1925); Weiss v. Porterfield, 27 Ohio St. 2d 117, 56 Ohio Op. 2d 65, 271 N.E.2d 792 (1971).

5       U.S. Nat. Bank of Oregon v. Independent Ins. Agents of America, Inc., 508 U.S. 439, 113 S. Ct. 2173, 124 L. Ed. 2d 402 (1993); DiFiore v. American Airlines, Inc., 454 Mass. 486, 910 N.E.2d 889 (2009).

6       U.S. Nat. Bank of Oregon v. Independent Ins. Agents of America, Inc., 508 U.S. 439, 113 S. Ct. 2173, 124 L. Ed. 2d 402 (1993); Weiss v. Porterfield, 27 Ohio St. 2d 117, 56 Ohio Op. 2d 65, 271 N.E.2d 792 (1971).

7       Richman Towers Tenants' Ass'n, Inc. v. Richman Towers LLC, 17 A.3d 590 (D.C. 2011); Weiss v. Porterfield, 27 Ohio St. 2d 117, 56 Ohio Op. 2d 65, 271 N.E.2d 792 (1971).

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#### D. Language of Statute

##### 6. Grammar; Spelling; Collocation

## § 133. Tense

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

The general rule that statutes are not to be construed by strict and critical adherence to technical grammatical rules, and that the true meaning, if clearly ascertained, must prevail, although contrary to the apparent grammatical sense,<sup>1</sup> has been applied to the tense of words used in a statute.<sup>2</sup> However, the use of verb tense may be considered significant in construing a statute.<sup>3</sup> A statute's undeviating use of the present tense is a striking indicator of its prospective orientation.<sup>4</sup>

The U.S.R.C.A. provides that use of a verb in the present tense includes the future tense.<sup>5</sup> Furthermore, under a federal statute, it is provided that in determining the meaning of any Act of Congress, unless the context indicates otherwise, words used in the present tense include the future as well as the present.<sup>6</sup>

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### Footnotes

1                   § 131.

2                   *Trimmier v. Carlton*, 116 Tex. 572, 296 S.W. 1070 (1927).

3                   *Hughes v. Board of Architectural Examiners*, 17 Cal. 4th 763, 72 Cal. Rptr. 2d 624, 952 P.2d 641 (1998).

4                   *Carr v. U.S.*, 130 S. Ct. 2229, 176 L. Ed. 2d 1152 (2010).

5                   Unif. Statute and Rule Construction Act § 5(c).

6                   1 U.S.C.A. § 1.

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##### 6. Grammar; Spelling; Collocation

## § 134. Collocation

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188, 200, 208

While the collocation of the words and phrases in a statute is sometimes an aid in the construction therein, and should not be arbitrarily disregarded, it should not control where the intention of the legislature requires it to be disregarded.<sup>1</sup> It is especially true that a transposition of words and clauses may be resorted to where the sentence or clause is without meaning as it stands.<sup>2</sup>

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### Footnotes

1 State ex rel. Palagi v. Regan, 113 Mont. 343, 126 P.2d 818 (1942); Talley v. Harris, 1947 OK 218, 199 Okla. 47, 182 P.2d 765 (1947).

2 State ex rel. Palagi v. Regan, 113 Mont. 343, 126 P.2d 818 (1942); Talley v. Harris, 1947 OK 218, 199 Okla. 47, 182 P.2d 765 (1947).

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 135. Definitions of lexicographers

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 214

Definitions of words and phrases by lexicographers may be used as an aid in determining the scope of words and phrases in statutes.<sup>1</sup> However, the purpose of a statute may require a broader interpretation than that to be drawn from mere dictionary definitions of words employed therein.<sup>2</sup> Thus, undefined common statutory terms are given their common dictionary meanings unless there is strong evidence that the legislature intended something else.<sup>3</sup>

### Observation:

Because statutes are not read as a collection of isolated phrases, a word in a statute may or may not extend to the outer limits of its definitional possibilities.<sup>4</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Courts must exercise great caution when relying on a dictionary definition of a common term to determine statutory meaning, because a dictionary is a museum of words, an historical catalog, rather than a means to decode the work of legislatures. [Stennett v. Miller](#), 34 Cal. App. 5th 284, 245 Cal. Rptr. 3d 872 (4th Dist. 2019), review denied, (July 10, 2019).

Where Congress has not defined a word in a statute, court interpreting the statute may consider dictionary definitions to determine the word's plain meaning. [Bergman v. Caulk](#), 938 N.W.2d 248 (Minn. 2020).

When a term is not defined in the statute, court looks to its common usage, using the dictionary for guidance. [Appeal of Michele](#), 123 A.3d 255 (N.H. 2015).

Unless the legislature is shown to have chosen its words in reliance on a particular dictionary definition of them, no particular dictionary is authoritative or otherwise controlling in determining meaning of statutory language; but that does not mean that the court should not consult dictionary definitions of both plain and technical terms to assist in interpreting a statute in a way that is consistent with legislative intent. [Comcast Corp. v. Department of Revenue](#), 356 Or. 282, 337 P.3d 768 (2014).

Terms not defined in a statute are to be given their plain and ordinary meaning, and words defined in dictionaries and with meanings so well known as to be understood by a person of ordinary intelligence are not to be considered vague and indefinite. [Watson v. State](#), 369 S.W.3d 865 (Tex. Crim. App. 2012).

Though undefined terms in a statute are given their common law or ordinary meanings, the words must be read in the context of the statute in which they appear, not in isolation or subject to all possible meanings found in a dictionary. [Citizens Alliance for Property Rights Legal Fund v. San Juan County](#), 359 P.3d 753 (Wash. 2015).

A court may use a dictionary to discern the plain meaning of an undefined statutory term. [Nissen v. Pierce County](#), 183 Wash. 2d 863, 357 P.3d 45 (2015).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Ray v. Kapiolani Medical Specialists, 125 Haw. 253, 259 P.3d 569 (2011); People v. Hill, 409 Ill. App. 3d 451, 351 Ill. Dec. 85, 949 N.E.2d 1180 (4th Dist. 2011), appeal denied, 353 Ill. Dec. 8, 955 N.E.2d 475 (Ill. 2011) and petition for cert. filed (U.S. Nov. 14, 2011); Com. v. Hart, 28 A.3d 898 (Pa. 2011).
- 2 Farmers Reservoir & Irrigation Co. v. McComb, 337 U.S. 755, 69 S. Ct. 1274, 93 L. Ed. 1672 (1949); Piedmont & N. Ry. Co. v. Interstate Commerce Commission, 286 U.S. 299, 52 S. Ct. 541, 76 L. Ed. 1115 (1932).
- 3 Michaels v. CH2M Hill, Inc., 171 Wash. 2d 587, 257 P.3d 532 (2011).
- 4 Abuelhawa v. U.S., 556 U.S. 816, 129 S. Ct. 2102, 173 L. Ed. 2d 982 (2009).

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##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 136. Legislative definitions

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### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.1

A definition in a statute of terms used in such statute is not an invasion of the province of the courts to construe statutes.<sup>1</sup> In fact, if the legislature has provided an express definition of a term, that definition is generally binding on the courts.<sup>2</sup> In the exercise of its power to define terms, the legislature may include within the concept and definition of a term ideas which may not be strictly within its ordinary definition.<sup>3</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

When a statute includes an explicit definition, the Supreme Court must follow that definition, even if it varies from a term's ordinary meaning. [Tanzin v. Tanvir, 141 S. Ct. 486 \(2020\)](#).

When a statute includes an explicit definition, a court must follow that definition, even if it varies from a term's ordinary meaning. [Digital Realty Trust, Inc. v. Somers, 138 S. Ct. 767 \(2018\)](#).

In settling on a fair reading of a statute, it is not unusual to consider the ordinary meaning of a defined term, particularly when there is dissonance between that ordinary meaning and the reach of the definition. [Bond v. U.S., 134 S. Ct. 2077 \(2014\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 State v. Schlenker, 112 Iowa 642, 84 N.W. 698 (1900); Carter v. Carter, 232 N.C. 614, 61 S.E.2d 711 (1950).
- 2 Galveston Independent School Dist. v. Jaco, 331 S.W.3d 182, 264 Ed. Law Rep. 910 (Tex. App. Houston 14th Dist. 2011), reh'g overruled, (Jan. 28, 2011) and review denied, (May 27, 2011).
- 3 Stenberg v. Carhart, 530 U.S. 914, 120 S. Ct. 2597, 147 L. Ed. 2d 743 (2000); State v. Grange, 200 Ind. 506, 165 N.E. 239 (1929).

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## 73 Am. Jur. 2d Statutes § 137

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 137. Operation of legislative definitions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.1

Statutory definitions control the meaning of statutory words in the usual case.<sup>1</sup> The lawmaking body's own construction of its language, by means of definitions of the terms employed, should be followed in the interpretation of the act or section to which it relates and is intended to apply.<sup>2</sup> As a rule, a statutory definition which declares what a term means excludes any meaning that is not stated.<sup>3</sup> The courts should not enlarge statutory definitions so as to include a situation or a condition which it might be assumed that the legislature would have covered by an enlarged definition if its existence had been contemplated.<sup>4</sup> A statutory definition supersedes the common-law,<sup>5</sup> colloquial,<sup>6</sup> commonly accepted, dictionary, or judicial definition.<sup>7</sup> In this regard, where the statute itself contains a definition of a word used therein, the definition controls, however contrary to the ordinary meaning of the word it may be,<sup>8</sup> and the term may not be given the meaning in which it is employed in another statute although the two may be in pari materia.<sup>9</sup> Where the legislature has defined words which are employed in a statute, its definitions are binding on the courts since the legislature has the right to give such signification as it deems proper to any word or phrase used by the statute, irrespective of the relationship of the definition to other terms.<sup>10</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

A definition in a statute does not provide an exception, but instead gives meaning to a term. [Cyan, Inc. v. Beaver County Employees Retirement Fund](#), 138 S. Ct. 1061 (2018).

A definition limited by the Legislature to a particular statute or group of statutes controls only as so specified. [State v. Jedlicka](#), 305 Neb. 52, 938 N.W.2d 854 (2020).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 Burgess v. U.S., 553 U.S. 124, 128 S. Ct. 1572, 170 L. Ed. 2d 478, 30 A.L.R. Fed. 2d 737 (2008).
- 2 Curle v. Superior Court, 24 Cal. 4th 1057, 103 Cal. Rptr. 2d 751, 16 P.3d 166 (2001); [State v. Olsen](#), 618 N.W.2d 346 (Iowa 2000).
- 3 Burgess v. U.S., 553 U.S. 124, 128 S. Ct. 1572, 170 L. Ed. 2d 478, 30 A.L.R. Fed. 2d 737 (2008).
- 4 [Lenox Realty Co. v. Hackett](#), 122 Conn. 143, 187 A. 895, 107 A.L.R. 1306 (1936); [Robertson v. Western Baptist Hosp.](#), 267 S.W.2d 395 (Ky. 1954).
- 5 [Rayonier, Inc. v. Polson](#), 400 F.2d 909 (9th Cir. 1968); [1137 19th Street Associates, Ltd. Partnership v. District of Columbia](#), 769 A.2d 155 (D.C. 2001).
- 6 [Western Union Telegraph Co. v. Lenroot](#), 323 U.S. 490, 65 S. Ct. 335, 89 L. Ed. 414 (1945).
- 7 [Stenberg v. Carhart](#), 530 U.S. 914, 120 S. Ct. 2597, 147 L. Ed. 2d 743 (2000); [Driscoll v. General Nutrition Corp.](#), 252 Conn. 215, 752 A.2d 1069 (2000).
- 8 [Kuznar v. Raksha Corp.](#), 481 Mich. 169, 750 N.W.2d 121 (2008); [Appeal of Clayton-Marcus Co., Inc.](#), 286 N.C. 215, 210 S.E.2d 199 (1974).
- 9 [Davison v. F. W. Woolworth Co.](#), 186 Ga. 663, 198 S.E. 738, 118 A.L.R. 1363 (1938).
- 10 [People v. Dugan](#), 91 Misc. 2d 239, 397 N.Y.S.2d 878 (County Ct. 1977).

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## 73 Am. Jur. 2d Statutes § 138

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### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 138. Operation of legislative definitions—Limitations

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.1

A statutory definition is not always exclusive.<sup>1</sup> Furthermore, defining clauses may be used only for the purpose of interpreting words in a statute that are ambiguous or equivocal and not so as to disturb the meaning of such as are plain.<sup>2</sup> The definition used in the statute may be directed to the extension, and not to the restriction, of the term defined.<sup>3</sup> While ordinarily statutory definitions control the meaning of statutory words, this rule does not apply where its application creates obvious incongruities in the language of the statute or destroys one of its major purposes.<sup>4</sup>

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### Footnotes

1 State v. Fields, 201 N.C. 110, 159 S.E. 11 (1931).

2 City Nat. Bank of Decatur v. Nelson, 218 Ala. 90, 117 So. 681, 61 A.L.R. 938 (1928).

3 Warner v. Goltra, 293 U.S. 155, 55 S. Ct. 46, 79 L. Ed. 254 (1934).

4 Lawson v. Suwannee Fruit & S.S. Co., 336 U.S. 198, 69 S. Ct. 503, 93 L. Ed. 611 (1949); *In re Greg H.*, 208 W. Va. 756, 542 S.E.2d 919 (2000).

## 73 Am. Jur. 2d Statutes § 139

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### D. Language of Statute

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###### a. In General

## § 139. Operation of legislative definitions—Effect upon other statutes or instruments

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 223.1

Words defined in a prior statute are *prima facie* to be regarded as used in the same sense in a subsequent statute<sup>1</sup> and will be so interpreted unless the contrary appears.<sup>2</sup> However, a legislative definition of a word as used in a statute is not conclusive of its meaning as used elsewhere.<sup>3</sup> There is authority for the rule that a word or phrase used in an earlier statute on the same subject becomes impressed with the signification given it by a statutory definition in the later statute even though earlier decisions interpreting the law are abrogated by the statutory definition.<sup>4</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The presumption of consistent usage readily yields to context, and a statutory term, even one defined in the statute, may take on distinct characters from association with distinct statutory objects calling for different implementation strategies. [Utility Air Regulatory Group v. E.P.A.](#), 134 S. Ct. 2427 (2014).

## [END OF SUPPLEMENT]

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Footnotes

- 1 State v. Herr, 151 Wash. 623, 276 P. 870 (1929).
- 2 Purtell v. Philadelphia & Reading Coal & Iron Co., 256 Ill. 110, 99 N.E. 899 (1912).
- 3 Champa v. Consolidated Finance Corp., 231 Ind. 580, 110 N.E.2d 289, 36 A.L.R.2d 185 (1953); Legum v. Carlin, 168 Md. 191, 177 A. 287, 99 A.L.R. 536 (1935).
- 4 State v. Miller, 92 Kan. 994, 142 P. 979 (1914).

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## 73 Am. Jur. 2d Statutes § 140

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 140. Identical terms or expressions in same statute

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 209

It is ordinarily regarded as reasonable to presume<sup>1</sup> or conclude, *prima facie*,<sup>2</sup> that words used in one place in a legislative enactment have the same meaning in every other place in the statute, especially where the word or phrase is repeatedly used therein.<sup>3</sup> In this regard, it has been said to be a normal rule of statutory construction that identical words used in different parts of the same act are intended to have the same meaning.<sup>4</sup> The rule has also been stated as being that when a definition of a word or phrase is provided in a statute, that meaning must be ascribed to the word or phrase whenever it is repeated in the statute unless a contrary intent appears.<sup>5</sup>

Accordingly, other sections of the same act in which the same word or phrase is used generally may be resorted to as an aid in determining the meaning thereof.<sup>6</sup>

On the other hand, the rule readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they are employed in different parts of the act with different intent.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

In all but the most unusual situations, a single use of a statutory phrase must have a fixed meaning across a statute. [Lomax v. Ortiz-Marquez, 140 S. Ct. 1721 \(2020\)](#).

Although it is often true that when Congress uses a word to mean one thing in one part of the statute, it will mean the same thing elsewhere in the statute, this principle readily yields to context, especially when a statutory term is used throughout a statute and takes on distinct characters in distinct statutory provisions. [Return Mail, Inc. v. United States Postal Service, 139 S. Ct. 1853 \(2019\)](#).

It is a normal rule of statutory construction that identical words used in different parts of the same act are intended to have the same meaning. [Pereira v. Sessions, 138 S. Ct. 2105 \(2018\)](#).

There is no canon of interpretation that forbids interpreting different words used in different parts of the same statute to mean roughly the same thing. [Jennings v. Rodriguez, 138 S. Ct. 830 \(2018\)](#).

In interpreting a statute, courts usually presume that identical words used in different parts of the same statute carry the same meaning. [Henson v. Santander Consumer USA Inc., 137 S. Ct. 1718 \(2017\)](#).

The presumption of consistent usage readily yields to context, and a statutory term may mean different things in different places; this is particularly true when the Act is far from a *chef d'oeuvre* of legislative draftsmanship. [King v. Burwell, 135 S. Ct. 2480 \(2015\)](#).

One ordinarily assumes that identical words used in different parts of the same act are intended to have the same meaning. [Utility Air Regulatory Group v. E.P.A., 134 S. Ct. 2427 \(2014\)](#).

Generally, identical words used in different parts of same statute are presumed to have same meaning. [Robers v. U.S., 134 S. Ct. 1854 \(2014\)](#).

Normal rule of statutory construction is that words repeated in different parts of the same statute generally have the same meaning. [Law v. Siegel, 134 S. Ct. 1188 \(2014\)](#).

Courts normally presume that words carry the same meaning when they appear in different but related sections of an act. [Kirtsaeng v. John Wiley & Sons, Inc., 133 S. Ct. 1351 \(2013\)](#).

No canon of interpretation forbids interpreting different words used in different parts of the same statute to mean roughly the same thing. [Kirtsaeng v. John Wiley & Sons, Inc., 133 S. Ct. 1351 \(2013\)](#).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit, 547 U.S. 71, 126 S. Ct. 1503, 164 L. Ed. 2d 179 \(2006\); People v. Maggette, 195 Ill. 2d 336, 254 Ill. Dec. 299, 747 N.E.2d 339 \(2001\); In re Greg H., 208 W. Va. 756, 542 S.E.2d 919 \(2000\).](#)
- 2 [Gustafson v. Alloyd Co., Inc., 513 U.S. 561, 115 S. Ct. 1061, 131 L. Ed. 2d 1 \(1995\); Anderson v. Carlson, 171 Neb. 741, 107 N.W.2d 535, 83 A.L.R.2d 831 \(1961\).](#)
- 3 [St. Luke's Magic Valley Regional Medical Center, Ltd. v. Board of County Com'rs of Gooding County, 149 Idaho 584, 237 P.3d 1210 \(2010\); Robinson v. City of Lansing, 486 Mich. 1, 782 N.W.2d 171 \(2010\);](#)

Eberhardt v. Fairfax County Employees' Retirement System Bd. of Trustees, 283 Va. 190, 721 S.E.2d 524 (2012).

4 FCC v. AT & T Inc., 131 S. Ct. 1177, 179 L. Ed. 2d 132 (2011); IBP, Inc. v. Alvarez, 546 U.S. 21, 126 S. Ct. 514, 163 L. Ed. 2d 288 (2005); Prus v. Holder, 660 F.3d 144 (2d Cir. 2011); Com. v. Wynton W., 459 Mass. 745, 947 N.E.2d 561, 267 Ed. Law Rep. 332 (2011).

Where Congress uses similar statutory language and similar statutory structure in two adjoining provisions, it normally intends similar interpretations. *Nijhawan v. Holder*, 557 U.S. 29, 129 S. Ct. 2294, 174 L. Ed. 2d 22 (2009).

5 *Nicholson v. State*, 600 So. 2d 1101 (Fla. 1992).

Use of identical definitions in two sections of the same statute typically manifests intent that they be given the same meaning. *Boston Archdiocese Teachers Ass'n v. Archdiocesan Cent. High Schools, Inc.*, 383 F. Supp. 2d 269, 201 Ed. Law Rep. 896 (D. Mass. 2005).

6 U.S. v. Cooper Corporation, 312 U.S. 600, 61 S. Ct. 742, 85 L. Ed. 1071 (1941); *Tobin v. AMR Corp.*, 637 F. Supp. 2d 406 (N.D. Tex. 2009); *Ste. Marie v. Riverside County Regional Park and Open-Space District*, 46 Cal. 4th 282, 93 Cal. Rptr. 3d 369, 206 P.3d 739 (2009).

7 *Roberts v. Sea-Land Services, Inc.*, 132 S. Ct. 1350 (2012); *Barber v. Thomas*, 130 S. Ct. 2499, 177 L. Ed. 2d 1 (2010); U.S. v. Cleveland Indians Baseball Co., 532 U.S. 200, 121 S. Ct. 1433, 149 L. Ed. 2d 401 (2001); U.S. v. Bly, 510 F.3d 453 (4th Cir. 2007); U.S. v. Trustees of Boston College, 2011 WL 6287967 (D. Mass. 2011), subsequent determination, 2012 WL 194432 (D. Mass. 2012); *Ocasio v. Federal Exp. Corp.*, 162 N.H. 436, 33 A.3d 1139 (2011).

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## 73 Am. Jur. 2d Statutes § 141

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 141. Identical terms or expressions in other statutes or constitutional provisions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 209, 223.1

Ordinarily, the same words used in different statutes on the same subject are interpreted to have the same meaning.<sup>1</sup> Indeed, if a special meaning is attached to certain words in a prior act, there is a presumption of some force that the legislature intended that they should have the same signification when used in a subsequent act in relation to the same subject matter.<sup>2</sup> These rules prevail where an intention on the part of the legislature to cut off the inference drawn from the language of the earlier acts cannot be found in other provisions.<sup>3</sup> However, the same words or phrases used in different statutes do not necessarily have the same meaning where the statutes relate to different subjects.<sup>4</sup> Indeed, the principle that in interpreting a term used in one statute the court may have recourse to other statutes showing the meaning of the term has no application where such statutes contain no general definition of the term.<sup>5</sup>

In construing statutes in relation to constitutional provisions, the courts take into consideration the principle that every statute is to be read in the light of the United States Constitution.<sup>6</sup> Thus, courts should not, except for strong and powerful reasons, give words or phrases used in a statute meanings different from those in which they are used in the Constitution.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Boilerplate in a statute is boilerplate for a reason because it offers tried-and-true language to ensure a precise and predictable result. (Per Chief Justice Roberts, with two justices concurring and four justices concurring in the judgment.) [Seila Law LLC v. Consumer Financial Protection Bureau](#), 140 S. Ct. 2183 (2020).

Courts usually presume that differences in language of companion statutes convey differences in meaning, and that presumption must bear particular strength when the same Congress passed both statutes to handle much the same task. [Wisconsin Central Ltd. v. U.S.](#), 138 S. Ct. 2067 (2018).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 Williams v. Taylor, 529 U.S. 420, 120 S. Ct. 1479, 146 L. Ed. 2d 435 (2000); Ketchum v. Moses, 24 Cal. 4th 1122, 104 Cal. Rptr. 2d 377, 17 P.3d 735 (2001); Bagley v. City of Richmond Dept. of Social Services, 59 Va. App. 522, 721 S.E.2d 21 (2012).  
Statutory language is interpreted in relation to the language of surrounding or closely related statutes. [State v. Parent](#), 2006 WI 132, 298 Wis. 2d 63, 725 N.W.2d 915 (2006).
- 2 Maddock v. Magone, 152 U.S. 368, 14 S. Ct. 588, 38 L. Ed. 482 (1894); [Curtin v. City of New York](#), 287 N.Y. 338, 39 N.E.2d 903, 142 A.L.R. 166 (1942).
- 3 Babbitt v. Dutcher, 216 U.S. 102, 30 S. Ct. 372, 54 L. Ed. 402 (1910); [Curtin v. City of New York](#), 287 N.Y. 338, 39 N.E.2d 903, 142 A.L.R. 166 (1942).
- 4 U.S. v. Dillard, 214 F.3d 88 (2d Cir. 2000); [Com. v. Smith](#), 431 Mass. 417, 728 N.E.2d 272 (2000).
- 5 [Piuser v. Sioux City](#), 220 Iowa 308, 262 N.W. 551, 100 A.L.R. 1298 (1935).
- 6 Am. Jur. 2d, Constitutional Law § 174.
- 7 [Goodyear Aircraft Corp. v. Industrial Commission](#), 62 Ariz. 398, 158 P.2d 511 (1945).

## 73 Am. Jur. 2d Statutes § 142

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### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 142. Technical terms, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 192

While there is contrary authority,<sup>1</sup> terms having a well-known trade, business, commercial, or professional significance<sup>2</sup> are generally presumed to have been used by the legislature in a technical sense.<sup>3</sup> The presumption must yield, however, to a clearly indicated contrary intention.<sup>4</sup> Furthermore, where a word used in a statute has both a popular and a technical meaning, the court will give it effect according to its popular signification<sup>5</sup> unless, as used in the statute, it has reference to a trade or profession.<sup>6</sup>

The U.S.R.C.A. provides that unless a word or phrase is defined in the statute or rule being construed, its meaning is determined by its context, the rules of grammar, and common usage; a word or phrase that has acquired a technical or particular meaning in a particular context has that meaning if it is used in that context.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

When interpreting a statute, terms that the legislature intended to have a specialized or technical meaning and are specifically defined in the statute are given their technical meanings; otherwise, terms are given their plain, ordinary, common meanings. [State v. Erskine, 2015-Ohio-710, 29 N.E.3d 272](#) (Ohio Ct. App. 4th Dist. Highland County 2015).

[END OF SUPPLEMENT]

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Footnotes

1 F.P. Baugh, Inc. v. Little Lake Lumber Co., 297 F.2d 692, 3 A.L.R.3d 625 (9th Cir. 1961).

2 Corning Glass Works v. Brennan, 417 U.S. 188, 94 S. Ct. 2223, 41 L. Ed. 2d 1 (1974); Katzman v. Commonwealth, 140 Ky. 124, 130 S.W. 990 (1910); State v. Vogl, 149 Me. 99, 99 A.2d 66 (1953).

3 Lewis Pub. Co. v. Morgan, 229 U.S. 288, 33 S. Ct. 867, 57 L. Ed. 1190 (1913); Weeks Tractor & Supply Co., LLC v. Arctic Cat Inc., 784 F. Supp. 2d 642 (W.D. La. 2011); Takacs v. Indian Lake Borough, Zoning Hearing Board, 18 A.3d 354 (Pa. Commw. Ct. 2011); State v. Dowdy, 2012 WI 12, 338 Wis. 2d 565, 808 N.W.2d 691 (2012).  
When an otherwise common word is given a distinct meaning in a technical dictionary or other technical reference and has a well-accepted meaning within the industry, courts construing that word in a statute turn to the technical, rather than general purpose, dictionary to resolve the word's definition. *Whidbey General Hosp. v. State*, 143 Wash. App. 620, 180 P.3d 796 (Div. 2 2008), as corrected, (Apr. 22, 2008).

4 U.S. v. Stone & Downer Co., 274 U.S. 225, 47 S. Ct. 616, 71 L. Ed. 1013 (Cust. App. 1927); Yassin v. Solis, 184 Cal. App. 4th 524, 108 Cal. Rptr. 3d 854 (2d Dist. 2010).

5 Orr Ditch & Water Co. v. Justice Court of Reno Tp., Washoe County, 64 Nev. 138, 178 P.2d 558 (1947); Cruz v. Trotta, 363 N.J. Super. 353, 833 A.2d 72 (App. Div. 2003).

6 Katzman v. Commonwealth, 140 Ky. 124, 130 S.W. 990 (1910); Cruz v. Trotta, 363 N.J. Super. 353, 833 A.2d 72 (App. Div. 2003).

7 Unif. Statute and Rule Construction Act § 2.

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## 73 Am. Jur. 2d Statutes § 143

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### Statutes

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### V. Interpretation

#### D. Language of Statute

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###### a. In General

## § 143. Words or phrase with legal import

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 192

Technical words and phrases which have acquired a peculiar and appropriate meaning in the law cannot be presumed to have been used by the legislature in a loose popular sense.<sup>1</sup> Thus, terms of art in a statute are to be taken in their technical sense because they have a definite meaning, which is supposed to have been understood by those who were or ought to have been learned in the law.<sup>2</sup> These rules apply in the absence of anything to the contrary appearing in the statute.<sup>3</sup>

It is a familiar rule of construction that when a statute uses words which have a definite and well-known meaning at common law, it will be presumed that the terms are used in the sense in which they were understood at common law, and they will be so construed unless it clearly appears that it was not so intended.<sup>4</sup> Although a common-law term of art should be given its established common-law meaning, a court does not assume that a statutory word is used as a term of art where that meaning does not fit; ultimately, context determines meaning, and a court does not force term-of-art definitions into contexts where they plainly do not fit and produce nonsense.<sup>5</sup>

### Observation:

It is a cardinal rule of statutory construction that when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken.<sup>6</sup>

When interpreting statutes, the presumption is that the word "shall" is ordinarily deemed mandatory and "may" permissive.<sup>7</sup> Unless the text of a statute dictates a different result, the term "knowingly" merely requires proof of knowledge of the facts and not knowledge of the law.<sup>8</sup> The statutory phrase "notwithstanding any other provision of law" has a special legal connotation; it is considered an express legislative intent that the specific statute in which it is contained controls in the circumstances covered by that statute despite the existence of some other law which might otherwise apply to require a different or contrary outcome.<sup>9</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The Supreme Court ordinarily will not imbue statutory terms with a specialized common law meaning when Congress has not itself invoked the common law terms of art associated with that meaning. [Food Marketing Institute v. Argus Leader Media, 139 S. Ct. 2356 \(2019\)](#).

The word "under," as used in a statute, is a chameleon that must draw its meaning from its context. [National Ass'n of Mfrs. v. Department of Defense, 138 S. Ct. 617 \(2018\)](#).

Absent other indication, Congress intends to incorporate the well-settled meaning of the common-law terms it uses. [Universal Health Services, Inc. v. U.S., 136 S. Ct. 1989 \(2016\)](#).

Absent other indication, Congress intends to incorporate the well-settled meaning of the common-law terms it uses. [U.S. v. Castleman, 134 S. Ct. 1405 \(2014\)](#).

It is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it is taken. [Air Wisconsin Airlines Corp. v. Hooper, 134 S. Ct. 852 \(2014\)](#).

Absent other indication, Congress intends to incorporate the well-settled meaning of the common-law terms it uses. [Sekhar v. U.S., 133 S. Ct. 2720 \(2013\)](#).

Where Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken and the meaning its use will convey to the judicial mind unless otherwise instructed. [Sekhar v. U.S., 133 S. Ct. 2720 \(2013\)](#).

If a word in a statute is obviously transplanted from another legal source, whether the common law or other legislation, it brings the old soil with it. [Sekhar v. U.S., 133 S. Ct. 2720 \(2013\)](#).

## [END OF SUPPLEMENT]

Footnotes

1 Davis v. Strople, 39 So. 2d 468 (Fla. 1949); People v. Montoya, 373 Ill. App. 3d 78, 311 Ill. Dec. 389, 868 N.E.2d 389 (2d Dist. 2007).

2 Morissette v. U.S., 342 U.S. 246, 72 S. Ct. 240, 96 L. Ed. 288 (1952); Ruiz v. Podolsky, 50 Cal. 4th 838, 114 Cal. Rptr. 3d 263, 237 P.3d 584 (2010); DISH Network Corp. v. Altomari, 224 P.3d 362 (Colo. App. 2009), cert. denied, 2010 WL 341384 (Colo. 2010); Bank Mut. v. S.J. Boyer Const., Inc., 2010 WI 74, 326 Wis. 2d 521, 785 N.W.2d 462 (2010).

3 Case v. Los Angeles Lumber Products Co., 308 U.S. 106, 60 S. Ct. 1, 84 L. Ed. 110 (1939); Armstrong v. Mayor and City Council of Baltimore, 410 Md. 426, 979 A.2d 98 (2009); Critical Health Connection, Inc. v. Texas Workforce Com'n, 338 S.W.3d 758 (Tex. App. Austin 2011).

4 Field v. Mans, 516 U.S. 59, 116 S. Ct. 437, 133 L. Ed. 2d 351 (1995); State v. Tauscher, 227 Or. 1, 360 P.2d 764, 88 A.L.R.2d 674 (1961); Kirsch v. State, 357 S.W.3d 645 (Tex. Crim. App. 2012).

5 Johnson v. U.S., 130 S. Ct. 1265, 176 L. Ed. 2d 1 (2010); Mycka v. 2003 GMC Envoy, MN Plate RPG535, VIN 1GKDT13S432414651, 783 N.W.2d 234 (Minn. Ct. App. 2010).  
In searching for the commonly understood legal meaning of a statutory term left undefined by the legislature, a court does not accept a common law definition if that definition would be inconsistent with the statute's purpose, notably where the term's definition has evolved. *Perez-Gonzalez v. Holder*, 667 F.3d 622 (5th Cir. 2012).

6 F.A.A. v. Cooper, 132 S. Ct. 1441 (2012).

7 People v. Standish, 38 Cal. 4th 858, 43 Cal. Rptr. 3d 785, 135 P.3d 32 (2006), as modified, (Aug. 23, 2006).

8 Texas Natural Resource Conservation Com'n v. Lakeshore Utility Co., Inc., 164 S.W.3d 368 (Tex. 2005).

9 In re Summer H., 139 Cal. App. 4th 1315, 43 Cal. Rptr. 3d 682 (2d Dist. 2006).

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## 73 Am. Jur. 2d Statutes § 144

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 144. Gender-related terms

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

Generally, statutes which use personal pronouns of the masculine gender are considered to include all genders.<sup>1</sup> In this regard, the U.S.R.C.A. provides that use of a word of one gender includes corresponding words of the other gender.<sup>2</sup> Furthermore, in determining the meaning of any Act of Congress, unless the context indicates otherwise, words importing the masculine gender include the feminine as well.<sup>3</sup>

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### Footnotes

<sup>1</sup> [Snyder's Estate v. Denit](#), 195 Md. 81, 72 A.2d 757, 18 A.L.R.2d 663 (1950).

<sup>2</sup> Unif. Statute and Rule Construction Act § 5(b).

<sup>3</sup> [1 U.S.C.A. § 1](#).

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## 73 Am. Jur. 2d Statutes § 145

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### Statutes

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### V. Interpretation

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##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### a. In General

## § 145. Singular or plural terms

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

In some cases, the words of a statute, though in the plural number, are interpreted to include the singular number,<sup>1</sup> and in other cases, the words of a statute, though in the singular number, are interpreted to include the plural number.<sup>2</sup> Thus, it has been declared that words importing the singular number may be extended or applied to several persons or things unless such construction would be repugnant to the context of the statute or inconsistent with the manifest intention of the legislature.<sup>3</sup> In any event, where the application of the rule is not necessary to carry out the legislative intent, it will not prevail.<sup>4</sup>

In determining the meaning of any Act of Congress, unless the context indicates otherwise, words importing the singular include and apply to several persons, parties, or things, and words importing the plural include the singular.<sup>5</sup> Furthermore, the U.S.R.C.A. provides that use of the singular number includes the plural, and use of the plural number includes the singular.<sup>6</sup> The Act also provides that a reference to a series of numbers or letters includes the first and last number or letter.<sup>7</sup>

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### Footnotes

<sup>1</sup> *State v. Holder*, 49 Idaho 514, 290 P. 387 (1930); *Zilske v. Albers*, 238 Iowa 1050, 29 N.W.2d 189 (1947).

<sup>2</sup> *McDonald v. McDonald*, 212 Ala. 137, 102 So. 38, 36 A.L.R. 761 (1924); *Zilske v. Albers*, 238 Iowa 1050, 29 N.W.2d 189 (1947).

3                   Chicago & W.I.R. Co. v. Heidenreich, 254 Ill. 231, 98 N.E. 567 (1912); State v. Hamilton, 1956 OK CR  
62, 298 P.2d 1073 (Okla. Crim. App. 1956).

4                   First Nat. Bank in St. Louis v. State of Missouri at inf. Barrett, 263 U.S. 640, 44 S. Ct. 213, 68 L. Ed. 486  
(1924).

5                   1 U.S.C.A. § 1.

Although the United States Code provides that unless the context indicates otherwise, words importing the plural include the singular, that provision is only applied where necessary to carry out the evident intent of a statute. *Dakota, Minnesota & Eastern R.R. Corp. v. Schieffer*, 648 F.3d 935 (8th Cir. 2011), referring to 1 U.S.C.A. § 1.

6                   Unif. Statute and Rule Construction Act § 5(a).

7                   Unif. Statute and Rule Construction Act § 6.

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## 73 Am. Jur. 2d Statutes § 146

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### b. Particular Statutory Terms

## § 146. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

The courts have had occasion to interpret many miscellaneous specific statutory terms of general application. Thus, the term "ordinary" has been held to mean "according to a settled order"<sup>1</sup> and the term "required" to mean "necessary."<sup>2</sup> The word "determine" when used with reference to court action may well be found to be the equivalent of "hear and determine," but when used in matters not pertaining to a judicial process, may mean merely "to ascertain."<sup>3</sup> The word "temporarily" is generally regarded as a relative and comparative term and defined as "not permanent, for a limited time only, not of long duration, transitory."<sup>4</sup> Whenever property rights or personal rights protected by the Constitution are in issue in judicial or quasi-judicial proceedings, a statutory duty to "find" facts may well imply the duty to accord a hearing.<sup>5</sup>

General rules of construction for various specific federal statutory terms are provided by statute.<sup>6</sup>

Furthermore, the U.S.R.C.A. provides a list of general definitions for use in drafting and construing statutes.<sup>7</sup> In addition, under the Act, "shall" and "must" express a duty, obligation, requirement, or condition precedent,<sup>8</sup> while "may" confers a power, authority, privilege, or right.<sup>9</sup> Furthermore, the Act provides that the terms "may not," "must not," and "shall not" prohibit the exercise of a power, authority, privilege, or right.<sup>10</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

Statutory context may indicate that the word from includes an intermediate stop, as opposed to referring solely to something moving directly from its original source to its destination. [County of Maui, Hawaii v. Hawaii Wildlife Fund, 140 S. Ct. 1462 \(2020\)](#).

For purposes of statutory construction, the word actual means existing in fact or reality. [Intel Corporation Investment Policy Committee v. Sulyma, 140 S. Ct. 768 \(2020\)](#).

For purposes of statutory construction, the word knowledge means the fact or condition of being aware of something. [Intel Corporation Investment Policy Committee v. Sulyma, 140 S. Ct. 768 \(2020\)](#).

For purposes of statutory interpretation, the word "under" is a chameleon that must draw its meaning from its context. [Pereira v. Sessions, 138 S. Ct. 2105 \(2018\)](#).

The phrase "by reason of" in a statute denotes some form of causation. [Husted v. A. Philip Randolph Institute, 138 S. Ct. 1833 \(2018\)](#).

Use of the word "respecting" in a legal context generally has a broadening effect, ensuring that the scope of a provision covers not only its subject but also matters relating to that subject. [Lamar, Archer & Cofrin, LLP v. Appling, 138 S. Ct. 1752 \(2018\)](#).

Distributive canon of statutory interpretation has the most force when an ordinary, disjunctive reading is linguistically impossible. [Encino Motorcars, LLC v. Navarro, 138 S. Ct. 1134 \(2018\)](#).

For purposes of statutory interpretation, the word "obtained" may refer to taking possession of a piece of property without also taking ownership. [Henson v. Santander Consumer USA Inc., 137 S. Ct. 1718 \(2017\)](#).

The ordinary meaning of "notwithstanding" is "in spite of," or "without prevention or obstruction from or by," and in statutes, the word shows which provision prevails in the event of a clash. [N.L.R.B. v. SW General, Inc., 137 S. Ct. 929 \(2017\)](#).

Ordinary meaning of the word "available" is capable of use for the accomplishment of a purpose, and that which is accessible or may be obtained. [Ross v. Blake, 136 S. Ct. 1850 \(2016\)](#).

Language like "by means of" is inherently elastic: it does not mean one thing as to all fact patterns, and certainly not in all statutes, given differences in context and purpose. [Loughrin v. U.S., 134 S. Ct. 2384 \(2014\)](#).

It is one of the traditional background principles against which Congress legislates that a phrase such as "results from" imposes a requirement of but-for causation. [Burrage v. U.S., 134 S. Ct. 881 \(2014\)](#).

In construing a statute, the definite article "the" particularizes the subject which it precedes and is a word of limitation as opposed to the indefinite or generalizing force of "a" or "an." [Gale v. First Franklin Loan Services, 686 F.3d 1055 \(9th Cir. 2012\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

1                   [State ex rel. Gass v. Gordon, 266 Mo. 394, 181 S.W. 1016 \(1915\)](#).

2                   [Scott v. State, 90 Tex. Crim. 100, 233 S.W. 1097, 16 A.L.R. 1420 \(1921\)](#).

3                   Ex parte Anderson, 191 Or. 409, 229 P.2d 633, 29 A.L.R.2d 1051 (1951).  
4                   Worthington v. McDonald, 246 Iowa 466, 68 N.W.2d 89, 47 A.L.R.2d 135 (1955).  
5                   Ex parte Anderson, 191 Or. 409, 229 P.2d 633, 29 A.L.R.2d 1051 (1951).  
6                   1 U.S.C.A. §§ 1 to 7.  
7                   Unif. Statute and Rule Construction Act § 3.  
8                   Unif. Statute and Rule Construction Act § 4(a).  
9                   Unif. Statute and Rule Construction Act § 4(b).  
10                  Unif. Statute and Rule Construction Act § 4(c).

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## 73 Am. Jur. 2d Statutes § 147

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### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### b. Particular Statutory Terms

## § 147. "Or" and "and"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 197

In its elementary sense, the word "or," as used in a statute, is a disjunctive particle indicating that the various members of the sentence are to be taken separately.<sup>1</sup> In this regard, where a statute contains two clauses that prescribe its applicability, and the clauses are connected by a disjunctive, the application of the statute is not limited to cases falling within both clauses but will apply to cases falling within either of them.<sup>2</sup> The word "or" is a disjunctive conjunction which serves to establish a relationship of contrast or opposition.<sup>3</sup> When interpreting a statute, the court will apply the literal meaning of the word "or" unless it renders the statute inoperable or its meaning becomes questionable.<sup>4</sup>

The ordinary and usual usage of the statutory term "and" is as a conjunctive, meaning "an additional thing," "also," or "plus."<sup>5</sup> The word "and" is a coordinating junction whose job is to link independent ideas.<sup>6</sup> When, in the enumeration of persons or things in a statute, the conjunction is placed immediately before the last of the series, the same connective is understood between the previous members.<sup>7</sup>

It is clear that the courts have the power to change and will change "and" to "or" and vice versa, whenever such conversion is required by the context;<sup>8</sup> or to save it from unconstitutionality;<sup>9</sup> or, in general, to effectuate the obvious intention of the legislature,<sup>10</sup> but doing so is an exceptional rule of construction.<sup>11</sup> Moreover, in penal statutes, the word "or" cannot be interpreted as meaning "and" when the effect would be to aggravate the offense or increase the punishment.<sup>12</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Word "or," as used in a statute, is almost always disjunctive. [Encino Motorcars, LLC v. Navarro](#), 138 S. Ct. 1134 (2018).

Ordinary use of the term "or" is almost always disjunctive, that is, the words it connects are to be given separate meanings. [Loughrin v. U.S.](#), 134 S. Ct. 2384 (2014).

Under Texas contract law, in its disjunctive nature, the word or expresses a choice between two mutually exclusive possibilities. [Miner, Ltd. v. Anguiano](#), 383 F. Supp. 3d 682 (W.D. Tex. 2019).

Term "and" is strictly of conjunctive nature, while term "or" is strictly of disjunctive nature, unless it is clear from statutory context that one has been mistakenly used for the other. [In re Winters](#), 485 B.R. 375 (Bankr. M.D. Tenn. 2013).

The usage of the statutory term "or," unaccompanied by any indication that what follows is qualified, indicates an intention to use "or" disjunctively so as to designate alternative or separate categories. [People v. Perez](#), 239 Cal. App. 4th 24, 190 Cal. Rptr. 3d 738 (3d Dist. 2015).

The natural meaning of "or," where used in a statute as a connective, is to mark an alternative and present choice, implying an election to do one of two things. [In re J.C.W.](#), 734 S.E.2d 781 (Ga. Ct. App. 2012).

The word "or" is disjunctive and ordinarily means an alternative between different things or actions with separate and independent significance. [Mickelson v. North Dakota Workforce Safety and Ins.](#), 2012 ND 164, 820 N.W.2d 333 (N.D. 2012).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Reiter v. Sonotone Corp.](#), 442 U.S. 330, 99 S. Ct. 2326, 60 L. Ed. 2d 931, 27 Fed. R. Serv. 2d 653 (1979); [Davis Forestry Products, Inc. v. DownEast Power Co., LLC](#), 2011 ME 10, 12 A.3d 1180, 73 U.C.C. Rep. Serv. 2d 415 (Me. 2011); [People v. Kowalski](#), 489 Mich. 488, 803 N.W.2d 200 (2011); [Michau v. Georgetown County ex rel. South Carolina Counties Workers Compensation Trust](#), 2012 WL 293284 (S.C. 2012).  
The word "or" in a statute expresses an alternative in its ordinary use and generally corresponds to the word "either." [State v. Martin](#), 2011 ND 6, 793 N.W.2d 188 (N.D. 2011).
- 2 [In re Johnson](#), 714 S.E.2d 169 (N.C. Ct. App. 2011).
- 3 [Hoile v. State](#), 404 Md. 591, 948 A.2d 30 (2008).
- 4 [State v. Martin](#), 2011 ND 6, 793 N.W.2d 188 (N.D. 2011).
- 5 [In re C.H.](#), 53 Cal. 4th 94, 133 Cal. Rptr. 3d 573, 264 P.3d 357 (2011).
- 6 [Bruesewitz v. Wyeth LLC](#), 131 S. Ct. 1068, 179 L. Ed. 2d 1 (2011).
- 7 [Wilcox v. Warren Const. Co.](#), 95 Or. 125, 186 P. 13, 13 A.L.R. 211 (1919).
- 8 [Reiter v. Sonotone Corp.](#), 442 U.S. 330, 99 S. Ct. 2326, 60 L. Ed. 2d 931, 27 Fed. R. Serv. 2d 653 (1979); [Mahwah Realty Associates, Inc. v. Township of Mahwah](#), 420 N.J. Super. 341, 21 A.3d 643 (App. Div. 2011), certification denied, 208 N.J. 599, 34 A.3d 780 (2011); [State v. Block](#), 150 N.M. 598, 2011-NMCA-101, 263 P.3d 940 (Ct. App. 2011).

If reading "and" in a statute literally would create an inconsistency in the statute or render the sense of the statute dubious, then the term "and" will be read as "or." [Martin v. Office of State's Attorney of Cook County](#), 2011 IL App (1st) 102718, 355 Ill. Dec. 531, 959 N.E.2d 1264 (App. Ct. 1st Dist. 2011).

9 Kirk v. State, 126 Tenn. 7, 150 S.W. 83 (1911).

10 Union Ins. Co. v. U.S., 73 U.S. 759, 18 L. Ed. 879, 1867 WL 11212 (1867); California Correctional Peace Officers Ass'n v. Tilton, 196 Cal. App. 4th 91, 126 Cal. Rptr. 3d 623 (3d Dist. 2011); [State v. Block](#), 150 N.M. 598, 2011-NMCA-101, 263 P.3d 940 (Ct. App. 2011).

While it is true that "or" is read typically as a disjunctive, such is not always the case when construing a statute; the term "or" may be read in the conjunctive when the context reasonably supports the inference that such a construction is necessary to effectuate the intent of the legislature. [David N. v. St. Mary's County Dept. of Social Services](#), 198 Md. App. 173, 16 A.3d 991 (2011).

11 [In re C.H.](#), 53 Cal. 4th 94, 133 Cal. Rptr. 3d 573, 264 P.3d 357 (2011).

12 [Smith v. City of Casper](#), 419 P.2d 704 (Wyo. 1966).

As to the convertibility of "and" and "or" in penal statutes, see [§ 148](#).

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### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### b. Particular Statutory Terms

## § 148. "And/or"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188, 197

The intention of the legislature in using the term "and/or" is that the word "and" and the word "or" are to be used interchangeably.<sup>1</sup> As used in statutes, the virgule ("/") is used to separate alternatives and is reasonably understood to be disjunctive, another expression of the word "or."<sup>2</sup> However, the courts appear to frown on the use of the term in penal statutes.<sup>3</sup>

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### Footnotes

- 1 [Davison v. F. W. Woolworth Co.](#), 186 Ga. 663, 198 S.E. 738, 118 A.L.R. 1363 (1938); [Marquette Cement Mfg. Co. v. Normand](#), 249 La. 1027, 192 So. 2d 552 (1966).
- 2 [In re Tyler Self-Storage Unit Permits](#), 2011 VT 66, 27 A.3d 1071 (Vt. 2011).
- 3 [City of Washington v. Washington Oil Co.](#), 346 Mo. 1183, 145 S.W.2d 366 (1940) (holding that the expression as used in defining a crime amounted to an unconstitutional classification).  
A statute defining a crime was construed as though the "or" were stricken out. [State v. Dudley](#), 159 La. 872, 106 So. 364 (1925).

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###### b. Particular Statutory Terms

## § 149. "Or," "of," and "on"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188, 197

In construing a statute, the court will substitute the word "or" for the word "of," or vice versa, when such substitution is necessary to make full sense and avoid seeming inconsistency and when the employment of the corrected word is obviously due to a clerical error.<sup>1</sup> Similarly, the use of the word "of" in a statute, which is a manifest blunder, being intended for "off," will not be permitted to affect the plain meaning of the legislature.<sup>2</sup> The same result has also been reached in cases where the word "on" was used instead of the word "or."<sup>3</sup>

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### Footnotes

- 1 [Jones v. Iowa State Highway Commission, 207 N.W.2d 1 \(Iowa 1973\); National Fire Ins. Co. v. Dennison, 93 Ohio St. 404, 113 N.E. 260 \(1916\).](#)
- 2 [Commonwealth v. Delaware Div. Canal Co., 123 Pa. 594, 16 A. 584 \(1889\).](#)
- 3 [City of Opa-Locka v. Trustees of Plumbing Industry Promotion Fund, 193 So. 2d 29 \(Fla. Dist. Ct. App. 3d Dist. 1966\).](#)

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### b. Particular Statutory Terms

## § 150. "All," "a," "every," "any," and "such"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

The word "all" usually does not admit of an exception, addition, or exclusion.<sup>1</sup> Similarly, the word "every" is generally regarded as a word of inclusion,<sup>2</sup> and, while the word "any" may be equivalent to the word "all,"<sup>3</sup> or may have an expansive meaning, i.e., one or some indiscriminately of whatever kind,<sup>4</sup> in some cases, the word "any" has been given a restrictive interpretation.<sup>5</sup> The indefinite article "a" may be substituted for the definite article "the" in a proper case.<sup>6</sup> Where the mention of persons or things in a statute is qualified by the word "such," the word should ordinarily be given the effect that is called for by the context.<sup>7</sup>

### Observation:

The adjective "such" sometimes serves a useful purpose as where it saves having to repeat a concept that cannot be referred to in a word or two; in statutes and regulations, for example, it may be necessary to make clear that the second reference is to exactly the same concept mentioned previously, and the word "such" is the simplest way to do so.<sup>8</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The word any in a statute has an expansive meaning. [Babb v. Wilkie](#), 140 S. Ct. 1168 (2020).

The term any ordinarily carries an expansive meaning. [Home Depot U. S. A., Inc. v. Jackson](#), 139 S. Ct. 1743 (2019).

In construing a statute, the definite article "the" particularizes the subject which it precedes and is a word of limitation as opposed to the indefinite or generalizing force of "a" or "an." [Gale v. First Franklin Loan Services](#), 701 F.3d 1240 (9th Cir. 2012).

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### Footnotes

- 1      [Consolidated Freightways Corp. of Del. v. Nicholas](#), 258 Iowa 115, 137 N.W.2d 900 (1965).
- 2      [Rockfield v. First Nat. Bank of Springfield](#), 77 Ohio St. 311, 83 N.E. 392 (1907).
- 3      [Davis v. GHS Health Maintenance Organization, Inc.](#), 2001 OK 3, 22 P.3d 1204 (Okla. 2001).
- 4      [Ali v. Federal Bureau of Prisons](#), 552 U.S. 214, 128 S. Ct. 831, 169 L. Ed. 2d 680 (2008).
- 5      [U.S. v. Palmer](#), 16 U.S. 610, 4 L. Ed. 471, 1818 WL 2444 (1818).
- 6      [Vinton v. Hoskins](#), 174 Or. 106, 147 P.2d 892 (1944).
- 7      [U.S. v. Gooding](#), 25 U.S. 460, 6 L. Ed. 693, 1827 WL 3060 (1827); [U.S. v. Bowen](#), 15 Ct. Cl. 619, 100 U.S. 508, 25 L. Ed. 631, 1879 WL 16565 (1879).
- 8      [People v. Jones](#), 46 Cal. 3d 585, 250 Cal. Rptr. 635, 758 P.2d 1165 (1988).

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## 73 Am. Jur. 2d Statutes § 151

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### Statutes

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### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### b. Particular Statutory Terms

## § 151. "Void" and "voidable"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

In some cases, the word "void" as used in a statute is interpreted to mean merely "voidable."<sup>1</sup> However, this result is avoided where the provision has been introduced in the statute for the benefit of particular persons incapable of protecting themselves.<sup>2</sup> Frequently, however, the word is given its natural force and effect and regarded as properly applicable to make that to which it refers of no effect whatsoever, or a mere nullity, or incapable of confirmation or ratification, especially where, by the application of general rules of construction, such interpretation reflects the legislative intent.<sup>3</sup>

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### Footnotes

1 [Hall v. Baylous](#), 109 W. Va. 1, 153 S.E. 293, 69 A.L.R. 527 (1930).

2 [Lagonda Nat. Bank v. Portner](#), 46 Ohio St. 381, 21 N.E. 634 (1889).

3 [Hall v. Baylous](#), 109 W. Va. 1, 153 S.E. 293, 69 A.L.R. 527 (1930).

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## 73 Am. Jur. 2d Statutes § 152

American Jurisprudence, Second Edition | May 2021 Update

### Statutes

Barbara J. Van Arsdale, J.D., Tracy Bateman Farrell, J.D., and Tom Muskus, J.D.

### V. Interpretation

#### D. Language of Statute

##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### b. Particular Statutory Terms

## § 152. "Contiguous"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

The meaning of the term "contiguous" depends largely on the context of the statute and the ultimate purpose to be served.<sup>1</sup> Thus, while the term may be construed to require an actual contact or connection, close proximity being insufficient,<sup>2</sup> it has also been construed by the courts in such a manner that things referred to in a particular statute are not precluded from being contiguous by the fact that they are separated by an alley<sup>3</sup> or sidewalk,<sup>4</sup> or even by a river.<sup>5</sup>

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### Footnotes

- 1 [Roy F. Stamm Elec. Co. v. Hamilton-Brown Shoe Co.](#), 350 Mo. 1178, 171 S.W.2d 580, 146 A.L.R. 917 (1943).
- 2 [Roy F. Stamm Elec. Co. v. Hamilton-Brown Shoe Co.](#), 350 Mo. 1178, 171 S.W.2d 580, 146 A.L.R. 917 (1943).
- 3 [Roy F. Stamm Elec. Co. v. Hamilton-Brown Shoe Co.](#), 350 Mo. 1178, 171 S.W.2d 580, 146 A.L.R. 917 (1943).
- 4 [Chicago, B. & Q.R. Co. v. City of Quincy](#), 136 Ill. 563, 27 N.E. 192 (1891).
- 5 [Vestal v. City of Little Rock](#), 54 Ark. 321, 15 S.W. 891 (1891).

## 73 Am. Jur. 2d Statutes § 153

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### Statutes

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### V. Interpretation

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## § 153. "Duplicate"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

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The word "duplicate" in a statute is construed to embody primarily the idea of exact identity, being the same as an original and having all the legal effect and validity of an original; it is not synonymous with "copy."<sup>1</sup> In this respect, an unsigned copy is not a "duplicate" of one that is signed within the meaning of a statute.<sup>2</sup>

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### Footnotes

<sup>1</sup> [Lorch v. Page](#), 97 Conn. 66, 115 A. 681, 24 A.L.R. 1204 (1921).

<sup>2</sup> [Grant v. Griffith](#), 39 A.D. 107, 56 N.Y.S. 791 (3d Dep't 1899), aff'd, 165 N.Y. 636, 59 N.E. 1123 (1901).

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## 73 Am. Jur. 2d Statutes § 154

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### Statutes

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### V. Interpretation

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##### 7. Definitions; Construction of Particular Types of Terms or Phrases

###### b. Particular Statutory Terms

## § 154. "Year"

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Statutes](#) 188

### A.L.R. Library

[What 12-month period constitutes "year" or "calendar year" as used in public enactment, contract, or other written instrument, 5 A.L.R.3d 584.](#)

The construction of the words "year" or "calendar year" depends upon the context of the statute in which the words are used and also upon the expressed or implied intention of the legislature.<sup>1</sup> These terms have been defined to mean a period of 12 months commencing at a fixed or designated month which terminated with the day of the corresponding month in the next succeeding year thereafter rather than a period commencing January 1 and terminating the succeeding December 31.<sup>2</sup> Generally, the legal year for determination of the accrual of a statute of limitation is 365 days; however, the legal year consists of 366 days if the month of February of a leap year is comprised within the period.<sup>3</sup> However, there is authority holding that the word "year," as used in a statute of limitations, refers to a calendar year, not a 365-day period.<sup>4</sup>

**Observation:**

The U.S.R.C.A. covers, in considerable detail, the computation of time. Under the Act, if a period is expressed in years, the period ends on the day of the concluding month of the concluding year which is numbered the same as the day of the month of the year on which an event determinative of the computation occurred unless the concluding month has no such day, in which case, the period ends on the last day of the concluding month of the concluding year.<sup>5</sup>

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Footnotes

- 1      Anderson v. Board of Ed. of School Dist. No. 91, 390 Ill. 412, 61 N.E.2d 562 (1945); City of St. Charles v. Union Elec. Co. of Mo., 185 S.W.2d 297 (Mo. Ct. App. 1945).
- 2      State ex rel. Piper v. East Baton Rouge Parish School Bd., 213 La. 885, 35 So. 2d 804 (1948); Grace v. Board of Ed. of City of New York, 19 A.D.2d 637, 241 N.Y.S.2d 429 (2d Dep't 1963).
- 3      Rodriguez-Esteras v. Solivan-Diaz, 266 F. Supp. 2d 270 (D.P.R. 2003).
- 4      Kowalski v. Hereford L'Oasis, 190 Or. App. 236, 79 P.3d 319 (2003).
- 5      Unif. Statute and Rule Construction Act § 7.

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